





# **ACTS AND RESOLVES**

PASSED BY THE  
**General Court of Massachusetts**  
IN THE YEAR

# **2004**

**VOLUME I**

PUBLISHED BY  
**William Francis Galvin**  
SECRETARY OF THE COMMONWEALTH

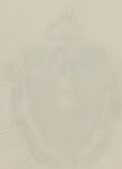


ACTS  
AND  
RESOLVES

PASSED BY THE  
GENERAL COURT OF MASSACHUSETTS  
IN THE YEAR

2004  
(MCMIV)

REPRINTED BY  
WILLIAM FRANKS GELFING  
SECRETARY OF THE COMMONWEALTH



---

## 2004 ACTS AND RESOLVES

### TABLE OF CONTENTS

#### ACTS

#### RESOLVES

SUMMARY OF ACTS AND RESOLVES ACTS WITH APPROVAL WITHHELD  
ACTS VETOED BY THE GOVERNOR, ACTS VETOED BY THE SENATE, AND  
ACTS DECLARED UNLAWFUL BY THE GOVERNOR OR THE SENATE  
THE AUTHORITY OF THE CLERK OF THE HOUSE

#### CERTIFICATION OF ACTS AND RESOLVES

The General Court, which was chosen November 5, 2002, assembled on Wednesday, the seventh day of January 2004 for the first session.

His Excellency W. Mitt Romney and the Honorable Kerry M. Healey served as Governor and Lieutenant Governor respectively for the political year of 2004.

Printed by William Francis O'Neil  
Secretary of the Commonwealth

At 12

123456

At 12

At 12

At 12

At 12

At 12

At 12

At 12

At 12

At 12

At 12

At 12

At 12

At 12

At 12

At 12

At 12

At 12

At 12

At 12

At 12

At 12

At 12

At 12

At 12

At 12

At 12

At 12

At 12

At 12

At 12

At 12

At 12

---

## **2004 ACTS AND RESOLVES**

### **TABLE OF CONTENTS**

<b>ACTS</b>	<b>1</b>
<b>RESOLVE</b>	<b>1556</b>
<b>SUMMARY OF ACTS AND RESOLVE APPROVED, APPROVAL WITHHELD, ACTS VETOED BY THE GOVERNOR, PASSED OVER HIS VETO, AND ACTS DECLARED EMERGENCY LAWS BY THE GOVERNOR UNDER THE AUTHORITY OF THE CONSTITUTION</b>	<b>1557</b>
<b>CERTIFICATION OF ACTS AND RESOLVE</b>	<b>1559</b>
<b>TABLE OF CHANGES</b>	<b>1561</b>
<b>INDEX</b>	<b>1643</b>

**Published by William Francis Galvin  
Secretary of the Commonwealth**



---

**Chapter 1. AN ACT ESTABLISHING A BETTERMENT FUND IN THE TOWN OF SPENCER.**

*Be it enacted, etc., as follows:*

Notwithstanding section 53 of chapter 44 of the General Laws or any other general or special law to the contrary, the town of Spencer may establish a fund, which the town treasurer shall keep separate and apart from all other monies of the town and in which shall be deposited all water, sewer, road and sidewalk betterment payments received by the town for any such betterment made after the effective date of this act. The town treasurer may invest such funds in the manner prescribed in sections 54 and 55 of said chapter 44. Any interest earned thereon shall be credited to and become part of the fund. The principal and income earned on the fund shall be available for expenditure by the board of selectmen without further appropriation for the acceptance and improvement of private ways, which improvements shall be done in accordance with chapter 80 of the General Laws, and other water, sewer, road and sidewalk betterments.

Approved January 15, 2004.

**Chapter 2. AN ACT PROVIDING FOR THE ANNUAL OBSERVANCE OF MYOSITIS AWARENESS DAY.**

*Be it enacted, etc., as follows:*

Chapter 6 of the General Laws is hereby amended by inserting after section 15SSSS, inserted by chapter 68 of the acts of 2003, the following section:-

Section 15TTTT. The governor shall annually issue a proclamation setting apart September 21 as Myositis Awareness Day and recommending that the day be observed in an appropriate manner by the people.

Approved January 15, 2004.

**Chapter 3. AN ACT RELATIVE TO PROPERTY TAX CLASSIFICATION IN CITIES AND TOWNS.**

*Whereas*, The deferred operation of this act would tend to defeat its purpose, which is forthwith to regulate the property tax classification limits in certain cities and towns beginning in the current fiscal year, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

*Be it enacted, etc., as follows:*

**SECTION 1.** (a) Notwithstanding section 1A of chapter 58 of the General Laws or any other general or special law to the contrary, the commissioner of revenue shall further adjust the minimum residential factor of any city or town determined under said section 1A of said chapter 58 for fiscal years 2004, 2005, 2006 and 2007, if adoption of such factor for any such year would result in the residential property class bearing a higher percentage of the total property tax levy than the percentage of the total property tax levy imposed on the residential property class than in the prior fiscal year. The new minimum residential factor for such year shall be (i) for fiscal year 2004, 45 per cent subject to such adjustment upward as may be required to provide that the percentage of the total tax levy imposed on any class of real or personal property shall not exceed 200 per cent of the full and fair cash valuation of the taxable property of the class divided by the full and fair cash valuation of all taxable real and personal property in the city or town, (ii) in fiscal year 2005, 47 per cent subject to such adjustment upward as may be required to provide that the percentage of the total tax levy imposed on any class of real or personal property shall not exceed 197 per cent of the full and fair cash valuation of the taxable property of the class divided by the full and fair cash valuation of all taxable real and personal property in the city or town, (iii) in fiscal year 2006, 49 per cent subject to such adjustment upward as may be required to provide that the percentage of the total tax levy imposed on any class of real or personal property shall not exceed 190 per cent of the full and fair cash valuation of the taxable property of the class divided by the full and fair cash valuation of all taxable real and personal property in the city or town, (iv) in fiscal year 2007, 50 per cent subject to such adjustment upward as may be required to provide that the percentage of the total tax levy imposed on any class of real or personal property shall not exceed 183 per cent of the full and fair cash valuation of the taxable property of that class divided by the full and fair cash valuation of all taxable real and personal property in the city or town, (v) in fiscal year 2008, 50 per cent subject to such adjustment upward as may be required to provide that the percentage of the total tax levy imposed on any class of real or personal property shall not exceed 175 per cent of the full and fair cash valuation of the taxable property of that class divided by the full and fair cash valuation of all taxable real and personal property in the city or town, (vi) in fiscal year 2009 and thereafter, in any city or town in which the percentage of the total tax levy imposed on any class of real or personal property exceeded 175 per cent of the full and fair cash valuation of the taxable property of that class divided by the full and fair cash valuation of all taxable real and personal property in the city or town in any of fiscal years 2004, 2005, 2006 or 2007, 50 per cent subject to such adjustment upward as may be required to provide that the percentage of the total tax levy imposed on any class of real or personal property shall not exceed 170 per cent of the full and fair cash valuation of the taxable property of that class divided by the full and fair cash valuation of all taxable real and personal property in the city or town. In no year after the first year in which the commissioner determines a new minimum residential factor for a city or town under this section, however, shall the adoption of such new minimum residential factor for such year result in the residential class bearing a lower

percentage of the total property tax levy than the percentage imposed in the prior year. Payments made under section 38H of chapter 59 of the General Laws, and similar provisions of special acts, that are included in the tax levy for purposes of determining the minimum residential factor under said section 1A of said chapter 58 shall be so included in the determination of any factor under this section.

(b) Any city or town which makes use of this section shall include a letter from the commissioner of the department of revenue in each tax bill. The letter shall describe the divergent trends in residential and commercial property valuations, and how the general court has mitigated the negative impact of these trends on residential tax bills with this section.

**SECTION 2.** (a) The department of revenue, with the assistance of state agencies and political subdivisions that the department deems necessary to complete its charge, shall study the current property tax classification system and to determine sustainable and equitable methods for addressing the current and any future divergence in residential and commercial and industrial property values that result in an abrupt shift of the tax levy onto one class of property taxpayers. The department shall examine ways to provide temporary tax relief to residential ratepayers unable to pay the tax increases resulting from said shifts in the property tax burden, including increasing the residential exemption for people of limited financial means, allowing abatements for the elderly or others who can prove through income tax returns or other documents they do not have the financial resources to pay the tax increases, increasing the income tax deduction for renters, extending the period allowed for payment of property taxes, and other methods of providing targeted tax relief on a temporary basis.

(b) Each city and town for which the commissioner has determined a minimum residential factor shall provide the department with the following information on a fiscal year basis: the total tax levy of the city or town, the percentage of the total tax levy of each of the classes of property by valuation and dollar amount, the tax rate on each of the classes of property, the number of outstanding tax delinquencies by property class and the dollar amount of those delinquencies, any and all agreements relative to payments in lieu of taxes, any and all agreements pursuant to chapter 121A of the General Laws, any and all tax relief programs offered by the city or town, the efforts used to promote them, the standards for participation, the processes for applying, the number of individuals that applied and the number that were actually accepted into the tax relief program and such other information as the department deems necessary to determine if further changes to the cap are necessary and appropriate.

(c) The department shall report its findings and any recommendations for legislation to the joint committee on taxation and the clerks of the house of representatives and the senate not later than December 1, 2004.

**SECTION 3.** The joint committee on taxation shall study and make recommendations for targeted property tax relief to businesses disproportionately impacted by dual tax rates in communities. The committee shall hold at least 1 public hearing to take testimony concerning such relief. The committee shall file a report of its findings and recommendations

---

### Chap. 3

with the house and senate clerks not later than April 30, 2004.

**SECTION 4.** The joint committee on natural resources and agriculture shall study and make recommendations for the reclassification for property tax purposes of agricultural and horticultural land, and for legislation, if any, carrying out those recommendations. The committee shall hold at least 1 public hearing to take testimony concerning reclassification. The committee shall file a report of its findings and recommendations with the house and senate clerks and the house and senate committees on ways and means not later than April 30, 2004.

Approved January 16, 2004.

### **Chapter 4. AN ACT EXEMPTING THE POSITION OF DEPUTY POLICE CHIEF OF THE TOWN OF CHELMSFORD FROM THE CIVIL SERVICE LAW.**

*Be it enacted, etc., as follows:*

**SECTION 1.** The position of deputy police chief in the town of Chelmsford shall be exempt from chapter 31 of the General Laws.

**SECTION 2.** Section 1 shall not impair the civil service status of any person holding the position of deputy police chief in the town on the effective date of this act.

**SECTION 3.** This act shall take effect upon its passage.

Approved January 22, 2004.

### **Chapter 5. AN ACT PROVIDING FOR A SELECTMEN - TOWN MANAGER FORM OF GOVERNMENT IN THE TOWN OF FOXBOROUGH.**

*Be it enacted, etc., as follows:*

**SECTION 1.** The town of Foxborough shall be governed by the provisions of this act. To the extent that this act modifies or repeals existing General Laws and special acts or the by-laws of the town of Foxborough, this act shall govern.

**SECTION 2.** Notwithstanding the election by the voters of the town of officers named in applicable laws, by-laws and votes of the town, such officers shall be available to the town manager for consultation, conference and discussion on matters relating to their respective officers. The town manager may require all such officials, except the selectmen, to prepare reports for the town manager necessary for the efficient administration of any of his responsibilities.

---

## Chap. 5

**SECTION 3.** (A) The executive powers of the town shall be vested in the board of selectmen, in this act referred to as BOS, who shall have all the powers given to boards of selectmen by the General Laws, except for those executive powers granted to the town manager.

(B) The BOS shall consist of 3 or 5 members, as determined from time to time by the town in accordance with law, each elected by the voters to a term of 3 years. If there is a 5 member BOS, at least 1 selectman will be elected each year with no more than 2 positions open for election during any given year except for a vacancy created by an unfinished term of an elected selectman and in the first year in which a 5 member BOS is created. If there is a 3 member BOS, at least 1 selectman will be elected each year except for a vacancy created by an unfinished term of an elected selectman.

(C) The BOS shall serve as the chief goal-setting and policy-making agency of the town and as such shall not normally administer the day-to-day affairs of the town. The duties and responsibilities shall be delegated to the town manager. The BOS shall act through the adoption of policy directives and guidelines which are to be implemented by officers and employees appointed by or under its authority. Individual selectmen shall not purport to represent the board or exercise the authority of the board except when specifically authorized by the board.

(D) The BOS shall:-

(1) Enact rules and regulations to implement policies and to issue interpretations.

(2) Exercise, through the town manager, general supervision over all matters affecting the interests or welfare of the town.

(3) Appoint the town counsel and any special counsels, and all members of committees, boards and commissions except those appointed by the moderator or elected by the voters. They may make appointments to temporary posts and committees they create for special purposes.

(4) Have general administrative oversight of such boards, committees and commissions appointed by the BOS.

(5) Have the responsibility and authority for licenses and other quasi-judicial functions as provided by the General Laws and the town of Foxborough by-laws, unless the General Laws provide otherwise.

(6) Prepare all town meeting warrants.

(7) Review the annual proposed budget submitted by the town manager and make recommendations with respect to the annual proposed budget as they deem advisable. The town manager shall present the budget, incorporating the recommendations of the BOS and the advisory committee.

(8) Appoint a town manager for a term of no less than 3 years, who shall be a person with executive and administrative qualifications and especially fitted by education, training and experience to perform the duties of the office. The town may from time to time, by by-law, establish such additional qualifications as seem necessary and appropriate.

---

## Chap. 5

(9) Remove the town manager at any time, with cause, by a majority vote of the full BOS. Removal shall be in accordance with the terms of the town manager's contract.

(10) Set the compensation for the town manager, not to exceed an amount appropriated by the town meeting.

(11) Designate a qualified person to serve as acting town manager and perform the duties of the office during any period of any vacancy exceeding 30 days, caused by the town manager's absence, illness, suspension, removal or resignation. The appointment shall be for a period not to exceed 180 days.

(12) Advise the capital improvement committee of their overall policies and goals.

**SECTION 4.** (A) The town manager shall be the chief administrative officer of the town and shall act as the agent for the BOS. He shall be responsible to the BOS for coordinating and administering all town affairs under the jurisdiction of the BOS.

(B) The town manager's powers and duties shall include, but not be limited to, the following:-

(1) Implement the policies of the BOS.

(2) Attend all meetings of the BOS, except when excused and have the right to speak on all matters that come before the board.

(3) Attend all town meetings and be permitted to speak when recognized by the moderator.

(4) Manage and direct the daily reporting and supervision of the following town departments: building commission, council on aging, police, civil defense, animal control officer, gas inspector, plumbing inspector, wiring inspector and weights and measures inspector, recreation, highway, tree and park, finance, finance director, collector, treasurer, accounting, veterans, town counsel, other committees appointed by and under the jurisdiction of the BOS. The appointment and removal of the town finance director shall remain with the BOS.

(5) Approve all warrants for the payment of town funds as prepared by the town accountant in accordance with section 56 of chapter 41 of the General Laws.

(6) Administer the town's personnel policies, compensation plans and employee benefits program.

(7) Contract and administer the town's insurance policies, including the ability to settle claims. All new contracts must receive the approval of the BOS.

(8) Appoint and remove, with just cause, all department heads and employees of departments under the direct control of the town manager. For those town employees under the jurisdiction of another governing body or departmental head such as the town planner, health agent, water and sewer employees, library director and library employees, town clerk and staff and fire department, appointments and removals shall be conducted by the appropriate governing body or department head, through the town manager. In all cases, the established policies and procedures of the town's personnel by-laws shall provide the structure for the administration of any personnel issues.

---

## Chap. 5

(9) The BOS shall have the right to veto any department head level appointments or removals. A majority vote of the full BOS shall be required to enact a veto. The town manager shall have the authority to reorganize any departmental structures under his jurisdiction. The BOS shall have the right to veto any such reorganizations. A majority vote of the full BOS shall be required to enact a veto.

(10) Negotiate all collective bargaining contracts on behalf of the town, with the exception of the school department contracts, under the guidance of the BOS. The town manager may seek the assistance of labor counsel, as he deems necessary to effect successful negotiations. All final agreements must receive the approval of the BOS.

(11) Establish compensation packages for all town employees not subject to a collective bargaining agreement under the guidance of the BOS. All final agreements must receive the approval of the BOS.

(12) Submit to the BOS a written proposed budget for town government for the ensuing fiscal year, including the school department. The proposed budget shall detail all estimated revenue from all sources, and all proposed expenditures, including debt service for the previous, current and ensuing years. It shall include proposed expenditures for both current operations and capital projects during the ensuing year, detailed by department, committee, agency, purpose and position and proposed financing methods. The proposed budget shall include estimated revenues and free cash available at the close of the fiscal year, including estimated balances in special accounts. The town may by by-law establish additional financial information and reports to be provided by the town manager.

(13) Report on the probable amount required to be levied and raised by taxation to defray all expenses and liabilities of the town together with an estimate of the tax rate necessary to raise such amount.

(14) Establish calendar dates on or before which the proposed budget, revenue statement and tax rate estimate are to be submitted to the BOS, as required by subsection 13 of the town of Foxborough, general by-law, shall be as specified by by-law.

(15) To assist the town manager in preparing the proposed annual budget of revenue and expenditures, the finance director, all boards, officers and committees of the town, including the school committee, shall furnish all relevant information in their possession and submit to the town manager, in writing in such form as the town manager shall establish, a detailed estimate of the appropriations required and available funds.

(16) Submit annually to the BOS a 5 year capital improvements program to include: (a) a list of all capital improvements and supporting data proposed to be undertaken during the next 5 years; (b) cost estimates, methods of financing and recommended time schedule; and (c) the estimated annual cost of operating and maintaining any facility to be constructed or acquired. A capital improvement shall be defined by town by-law.

(17) Advise the BOS periodically, at least monthly, of all departmental year to date expenses. Advise the BOS periodically, at least monthly, of the town's year to date revenues. Direct action as deemed necessary to ensure that all operating and capital budgets under the direct control of the town manager are maintained in accordance with the town meeting vote

---

## Chap. 5

that approved those budgets. Coordinate efforts with the governing bodies of those departments not under the direct supervision of the town manager to ensure that those operating and capital budgets are maintained in accordance with the town meeting vote that approved those budgets.

(18) Keep full and complete records of the office and annually submit to the BOS, unless requested to do so more frequently, a full report of the operations of the office of the town manager.

(19) Be responsible for coordination of operational and strategic planning for the town.

(20) Serve as the town's procurement officer.

(21) Manage and be responsible for all the town buildings, properties and facilities, except those under the jurisdiction of the school committee, library trustees, fire chief and the board of water and sewer commissioners, unless requested by that agency.

(22) Prepare application of all town warrants for approval by the BOS.

(23) Prosecute, defend or comprise all litigation for or against the town in accordance with the guidance provided by the BOS.

(24) Delegate and direct any qualified town official or employee to carry out any duty that is within the authority of the town manager.

(25) During his temporary absence, the town manager may designate by letter filed with the BOS a qualified administrative employee or officer to exercise the powers and perform the duties of the town manager as approved by the BOS.

(26) Perform any other duties or tasks assigned by the BOS.

**SECTION 5.** The town manager of the town of Foxborough shall have access to all municipal books, papers and documents or information necessary for the proper performance of the duties of the town manager. The town manager may, without notice, cause the affairs of any division or department under the manager's supervision for the conduct of any officer or employee thereof to be examined.

**SECTION 6.** All laws, by-laws, votes, rules and regulations, whether enacted by authority of the town or any other authority, which are in force in the town of Foxborough on the effective date of this act, or any portion or portions thereof, not inconsistent with the provisions of this act, shall continue in full force and effect until otherwise provided by other law, by-laws, votes, rules and regulations, respectively.

**SECTION 7.** No contract existing and no action at law or suit in equity, or other proceeding pending on the effective date of this act, or the time of revocation of such acceptance, shall be affected by such acceptance or revocation of this act.

**SECTION 8.** Any person holding a town office or employment under the town of Foxborough shall retain such office or employment and shall continue to perform his duties until provisions shall have been made in accordance with this act for the performance of those duties by another person or agency. No person who continues in the permanent full-time service or employment of the town shall forfeit his pay, grade or time in service.

**SECTION 9.** This act shall take effect upon its passage.

Approved January 22, 2004.

**Chapter 6. AN ACT RELATIVE TO THE MUNICIPAL LIGHT BOARD OF THE TOWN OF MARBLEHEAD.**

*Be it enacted, etc., as follows:*

**SECTION 1.** Notwithstanding any general or special law to the contrary, the municipal light board of the town of Marblehead shall be increased from 3 to 5 citizens of the town, 1 of whom shall be elected for an initial term of 2 years, and 1 of whom shall be elected for an initial term of 3 years from the date of an annual town election at which they were elected. Upon the expiration of these initial terms, these additional members and their successors thereafter shall be elected for 3-year terms.

**SECTION 2.** This act shall take effect upon its passage.

Approved January 22, 2004.

**Chapter 7. AN ACT AUTHORIZING A BALLOT QUESTION IN THE TOWN OF LEXINGTON RELATIVE TO THE GRANTING OF CERTAIN ALCOHOLIC BEVERAGE LICENSES.**

*Be it enacted, etc., as follows:*

Notwithstanding any limitations imposed by section 11 and section 17 of chapter 138 of the General Laws or any other general or special law to the contrary, the board of selectmen of the town of Lexington shall cause to be submitted to the voters in the next regularly scheduled election, to be held at least 35 days following the effective date of this act, the following question:-

Whereas the board of selectmen is now authorized to grant licenses in the town of Lexington for the sale of all alcoholic beverages in restaurants with seating capacities of 99 persons or more, shall the board of selectmen also be authorized to grant licenses for the sale of all alcoholic beverages including, but not limited to, licenses for the sale of wines and malt beverages, to restaurants in the town of Lexington with seating capacities of less than 99 persons?

Yes \_\_\_\_\_  
No \_\_\_\_\_

If a majority of the votes cast in answer to this question is in the affirmative, the town shall be taken to have authorized the board of selectmen to issue licenses for the sale of all alcoholic beverages including, but not limited to, licenses for the sale of wines and malt beverages, to be drunk on the premises of restaurants in the town with a seating capacity of less than 99 persons, subject to all the other provisions of said chapter 138, and may further issue special licenses as provided in section 14 of said chapter 138.

**SECTION 2.** This act shall take effect upon its passage.

Approved January 22, 2004.

---

**Chapter 8. AN ACT AUTHORIZING THE TOWN OF WESTWOOD TO GRANT LICENSES FOR THE SALE OF ALL ALCOHOLIC BEVERAGES AND WINES AND MALT BEVERAGES TO BE DRUNK ON THE PREMISES.**

*Be it enacted, etc., as follows:*

**SECTION 1.** Notwithstanding section 11 of chapter 138 of the General Laws or any general or special law to the contrary, the licensing authority in the town of Westwood may grant, to common victuallers licensed pursuant to chapter 140 of the General Laws to conduct restaurants, licenses for the sale of all alcoholic beverages and for the sale of wines and malt beverages to be drunk on the premises under section 12 of said chapter 138. The licenses shall be subject to all of said chapter 138 except section 11.

**SECTION 2.** This act shall take effect upon its passage.

Approved January 22, 2004.

**Chapter 9. AN ACT AUTHORIZING THE DISPOSITION BY EXCHANGE OF LAND HELD FOR PRESERVATION OF NATURAL SCENIC AND OPEN QUALITIES.**

*Be it enacted, etc., as follows:*

**SECTION 1.** The Massachusetts Audubon Society, Inc. is hereby authorized, notwithstanding any other general or special law to the contrary, to dispose, whether through merger or release, of all the interests acquired and held by it pursuant to a deed and conservation restriction dated July 29, 1977 and recorded in the Barnstable county registry of deeds in Book 2628, Page 110 for the preservation in perpetuity of a certain parcel of land in natural, scenic and open condition in conjunction with the acquisition by the town of Barnstable of said parcel for combination with additional abutting parcels, all of which are to be held together for the purposes of the development and utilization of water resources on a portion thereof and the preservation in perpetuity of the remaining and additional land in a natural, scenic and open condition under grant of a successor conservation restriction to the Massachusetts Audubon Society, Inc.

The land authorized to be disposed of by this act and transferred to the town of Barnstable and combined with additional adjacent land to be acquired by the town of Barnstable is more particularly described as follows:

A parcel of land described in quitclaim deed of Catherine E. Conroy to Louise F. Wynne dated November 21, 1955 recorded in the Barnstable county registry of deeds in Book 927, Page 219, quitclaim deed of Dalton C. Hall and Anne R. Hall to Louise F. Wynne dated September 12, 1964 and recorded in said registry in Book 1270, Page 59, notice of real property inventory of estate of Louise F. Wynne recorded in said registry in Book 2537, Page

---

## Chap. 9

174, and deed and conservation restriction from Massachusetts Audubon Society, Inc. to Association for the Preservation of Cape Cod, Inc. dated July 29, 1977 and recorded in said registry in Book 2628, Page 110.

**SECTION 2.** This act shall take effect upon its passage.

Approved January 22, 2004

## Chapter 10. AN ACT RELATIVE TO THE MEDICAL SECURITY TRUST FUND.

*Whereas*, The deferred operation of this act would tend to defeat its purpose, which is to accommodate certain revenue and expenditure discrepancies in the Medical Security Trust Fund, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

*Be it enacted, etc., as follows:*

Subsection (k) of section 14G of chapter 151A of the General Laws, as appearing in the 2002 Official Edition, is hereby amended by adding the following sentence:- For the purpose of accommodating discrepancies between the receipt of revenues and related expenditures, the division may incur obligations and the comptroller may certify payment amounts not to exceed the most recent revenue estimate submitted by the division and approved by the comptroller; provided, however, that the fund shall be in balance by the close of each fiscal year.

Approved January 26, 2004.

## Chapter 11. AN ACT EXEMPTING THE POSITION OF CHIEF OF POLICE IN THE TOWN OF EAST LONGMEADOW FROM THE CIVIL SERVICE LAW.

*Be it enacted, etc., as follows:*

**SECTION 1.** The position of chief of police in the town of East Longmeadow shall not be subject to chapter 31 of the General Laws.

**SECTION 2.** Section 1 of this act shall not impair the civil service status of any person holding the position of chief of police in the town of East Longmeadow on the effective date of this act.

**SECTION 3.** This act shall take effect upon its passage.

Approved January 26, 2004.

---

**Chapter 12. AN ACT PROVIDING FOR THE ANNUAL OBSERVANCE OF CERTAIN CIVIL WAR INFANTRY REGIMENTS DAYS.**

*Be it enacted, etc., as follows:*

Chapter 6 of the General Laws is hereby amended by inserting after section 15TTTT the following 2 sections:-

Section 15UUUU. The governor shall annually issue a proclamation setting apart June 27 as the 9th Regiment Massachusetts Volunteer Infantry of the Civil War Day and recommending that this day be observed in an appropriate manner by the people.

Section 15VVVV. The governor shall annually issue a proclamation setting apart July 18 as the 54th Regiment Massachusetts Volunteer Infantry of the Civil War Day and recommending that this day be observed in an appropriate manner by the people.

Approved January 29, 2004.

**Chapter 13. AN ACT RELATIVE TO PONDER'S HOLLOW ROAD IN THE CITY OF WESTFIELD.**

*Be it enacted, etc., as follows:*

**SECTION 1.** Notwithstanding any general or special law to the contrary, the portion of Ponder's Hollow road that lies between the easterly boundary line of Southwick road and the westerly boundary line of Tannery road within the city of Westfield shall be discontinued as a public way.

Upon the discontinuance of the portion of Ponder's Hollow road as a public way, the city of Westfield shall be vested with a perpetual 33 foot wide utility easement, for the purpose of laying, erecting, contracting, replacing, repairing, maintaining and operating any and all utilities, said easement being shown by reference to its center line on plan sheets entitled "Discontinuance and Easement Plan of Ponder's Hollow Road prepared for City of Westfield, Massachusetts," dated December 6, 2001, E. B. Holmberg & Associates, Land Surveyors.

**SECTION 2.** Any person holding an interest in land and who shall claim damage or injury to an interest by the discontinuance of Ponder's Hollow road as a public way, or the establishment of the utility easement established in section 1, shall have as his exclusive remedy the right to petition the Hampden county superior court for damages from the city of Westfield in conformity with, and subject to, the rights, limitations and procedures established in chapter 79 of the General Laws. The limitations period within which such a petition shall be filed shall commence to run from the date the city causes a copy of this act and the plan set forth in section 1 to be recorded in the Hampden county registry of deeds.

Approved January 29, 2004.

**Chapter 14. AN ACT AUTHORIZING A BALLOT QUESTION IN THE TOWN OF BELMONT RELATIVE TO THE GRANTING OF LICENSES FOR THE SALE OF ALCOHOLIC BEVERAGES IN CERTAIN RESTAURANTS.**

*Be it enacted, etc., as follows:*

**SECTION 1.** Notwithstanding sections 11A and 17 of chapter 138 of the General Laws, the board of selectmen of the town of Belmont shall cause to be placed on the official ballot to be used for the election of officers in the town of Belmont at the annual town meeting to be held in the year 2004 the following question:

"Shall the board of selectmen be authorized to grant licenses for the sale of all alcoholic beverages in restaurants having at least 130 and not more than 250 seats provided that not more than 3 such licenses shall be in effect?"

Yes \_\_\_\_\_

No \_\_\_\_\_

If the majority of the votes cast in town in answer to said question is in the affirmative, the town shall be taken to have authorized the sale in said town of all alcoholic beverages to be drunk on the premises in restaurants having at least 130 and not more than 250 seats; provided, however, that not more than 3 such licenses shall be in effect. The licenses shall be subject to all the other provisions of said chapter 138 of the General Laws.

**SECTION 2.** The board of selectmen shall include a summary of the aforesaid question on the ballot with that question.

**SECTION 3.** This act shall take effect upon its passage.

Approved January 29, 2004.

**Chapter 15. AN ACT VALIDATING THE PROCEEDINGS OF THE ANNUAL TOWN MEETING IN THE TOWN OF PALMER.**

*Be it enacted, etc., as follows:*

**SECTION 1.** Notwithstanding section 10 of chapter 39 of the General Laws or any other general or special law to the contrary, all acts and proceedings taken by the town of Palmer at its June 2, 2003 annual town meeting and all adjourned sessions thereof, and all actions taken pursuant thereto, are hereby ratified, validated and confirmed, notwithstanding any defect or omission in the calling of the meeting.

**SECTION 2.** This act shall take effect upon its passage.

Approved January 29, 2004.

---

**Chapter 16. AN ACT AUTHORIZING THE TOWN OF SOUTHAMPTON TO GRANT AN ADDITIONAL LICENSE FOR THE SALE OF ALL ALCOHOLIC BEVERAGES NOT TO BE DRUNK ON THE PREMISES.**

*Be it enacted, etc., as follows:*

**SECTION 1.** Notwithstanding section 17 of chapter 138 of the General Laws, the licensing authority of the town of Southampton may grant to Shree Gurudev Corp., doing business as Southampton Beer & Wine, a license for the sale of all alcoholic beverages not to be drunk on the premises under section 15 of said chapter 138. The license shall be subject to said chapter 138, except said section 17. Upon the issuance of the license authorized in this act, Shree Gurudev Corp. doing business as Southampton Beer & Wine shall return to the town of Southampton its license for the sale of wines and malt beverages not to be drunk on the premises.

**SECTION 2.** This act shall take effect upon its passage.

Approved January 29, 2004.

**Chapter 17. AN ACT AUTHORIZING THE TOWN OF ADAMS TO GRANT AN ADDITIONAL LICENSE FOR THE SALE OF ALL ALCOHOLIC BEVERAGES TO BE DRUNK ON THE PREMISES.**

*Be it enacted, etc., as follows:*

**SECTION 1.** Notwithstanding section 17 of chapter 138 of the General Laws, the licensing authority of the town of Adams may grant an additional license for the sale of all alcoholic beverages to be drunk on the premises under section 12 of said chapter 138. The license shall be subject to all of said chapter 138 except said section 17.

**SECTION 2.** This act shall take effect upon its passage.

Approved January 29, 2004.

**Chapter 18. AN ACT DESIGNATING THE BROCKTON DISTRICT COURTHOUSE AS THE GEORGE N. COVETT COURTHOUSE.**

*Be it enacted, etc., as follows:*

The Brockton district courthouse, shall be designated and known as the George N. Covett Courthouse, in honor of George N. Covett, the former presiding justice of the Brock-

---

**Chap. 18**

ton district court. The division of capital asset management and maintenance shall erect suitable markers bearing the designation in compliance with the standards of the division.

Approved January 29, 2004.

**Chapter 19. AN ACT DESIGNATING A CERTAIN OVERPASS IN THE CITY OF NEWBURYPORT AS THE RAYMOND F. WELCH MEMORIAL OVERPASS.**

*Be it enacted, etc., as follows:*

The overpass on state highway route 1 spanning Merrimac street in the city of Newburyport shall be designated and known as the Raymond F. Welch Memorial Overpass, in honor of Raymond F. Welch. The highway department shall erect and maintain a suitable marker bearing said designation in compliance with the standards of said department.

Approved February 5, 2004.

**Chapter 20. AN ACT RELATIVE TO PARKING VIOLATIONS IN THE TOWN OF WELLFLEET.**

*Be it enacted, etc., as follows:*

Notwithstanding any general or special law to the contrary, the town of Wellfleet may establish by by-law fines for parking violations, not exceeding \$50 if paid within 21 days, not exceeding \$55 if paid after 21 days but before the parking clerk reports to the registrar of motor vehicles, and not exceeding \$70 after the violation has been reported to the registrar.

Approved February 5, 2004.

**Chapter 21. AN ACT RELATIVE TO PUBLIC WORKS FUNCTIONS IN THE TOWN OF BELMONT.**

*Be it enacted, etc., as follows:*

**SECTION 1.** Notwithstanding any general or special law to the contrary, the board of water commissioners in the town of Belmont is hereby abolished, and the board of selectmen of the town shall assume all powers and duties heretofore vested in the board of water commissioners.

---

## Chap. 21

Notwithstanding chapter 114 of the General Laws and except as provided by any by-laws of the town, the board of selectmen shall assume all powers and duties heretofore vested in the board of cemetery commissioners.

**SECTION 2.** All persons employed by and all equipment under the supervision of the board of water commissioners and the board of cemetery commissioners of the town shall be transferred to the supervision of the board of selectmen.

**SECTION 3.** The board of selectmen of the town may establish a consolidated department of public works in order to maximize the efficiency and effectiveness of its public services.

**SECTION 4.** The members of the board of cemetery commissioners shall continue in office, but shall not have any authority in the assignment of personnel or equipment. No sooner than 5 years from the effective date of this act, the board of selectmen may request the town meeting to convert the board of cemetery commissioners to an appointive body. Upon a  $\frac{2}{3}$  vote of town meeting, the board of selectmen shall establish and appoint a board of cemetery commissioners, consisting of 3 members, for such term as the town by-laws shall prescribe.

**SECTION 5.** All laws, by-laws, rules and regulations in force on the effective date of this act that are not inconsistent with this act shall continue in full force until amended or repealed. If this act conflicts with any law, by-law, rule or regulation of the town, this act shall govern.

**SECTION 6.** This act shall take effect upon its passage.

Approved February 5, 2004.

## **Chapter 22. AN ACT AUTHORIZING THE TOWN OF MILTON TO ESTABLISH THE MILTON HIGH SCHOOL ACCREDITATION FUND.**

*Be it enacted, etc., as follows:*

**SECTION 1.** Notwithstanding section 63 of chapter 44 of the General Laws or any other general or special law to the contrary, the town of Milton may establish a special fund in the town treasury to be called the Milton High School Accreditation Fund, into which shall be deposited the proceeds and any investment earnings thereon of the sale by the town of certain land. The land is on Hillside street in the town of Milton, containing 23.6 acres more or less, shown on the Town of Milton Assessors' Maps as Section K, Block 8, Lot 37, located generally between Mark lane and Ford Ranch road on the northwesterly side of Hillside street, which land is shown on a plan entitled "Plan of Land in Milton, Massachusetts" dated January, 1959, Scale 1 inch = 100 feet, prepared by Alexander E. Manning, Town Engineer, which plan is filed with the Norfolk county registry of deeds as Plan No. 529 of 1959 at Book 3723, Page 408, and described in an Order of Taking dated April 30, 1959 and record-

---

## Chap. 22

ed with the Norfolk registry of deeds at Book 3723, Page 408.

Any income derived from the investment of such special fund shall remain with and become part of the fund. The town treasurer shall be the custodian of the special fund and shall make an accounting of the special fund to each annual town meeting. Any funds held in the special fund shall constitute trust funds within the meaning of section 54 of chapter 44 of the General Laws. All amounts in the special fund shall be applied solely to providing school text books, teaching materials, teaching equipment and school supplies, all for the sole purpose of assisting the town of Milton in its efforts to remove Milton high school from its current probationary status and to maintain its full accredited status, in such amount as any Milton special town meeting or annual town meeting may determine in any year.

All expenditures from the special fund shall be in addition to and shall not supplant any other funds appropriated by the town for the support of the schools in any fiscal year.

**SECTION 2.** This act shall take effect upon its passage.

Approved February 12, 2004.

## Chapter 23. AN ACT RELATIVE TO THE GERIATRIC AUTHORITY OF THE TOWN OF MILFORD.

*Be it enacted, etc., as follows:*

**SECTION 1.** Notwithstanding any general or special law to the contrary, the Geriatric Authority of Milford, established by chapter 76 of the acts of 1982, may participate with the town of Milford in the town's liability claims and insurance fund and municipal buildings and Property Insurance Fund, authorized by chapter 307 of the acts of 1986, upon such terms and conditions as may be agreed upon by the authority and the board of selectmen of the town of Milford.

**SECTION 2.** This act shall take effect upon its passage.

Approved February 12, 2004.

## Chapter 24. AN ACT RELATIVE TO THE USE OF MOTORCYCLIST'S HEAD GEAR IN PARADES.

*Be it enacted, etc., as follows:*

Section 7 of chapter 90 of the General Laws, as appearing in the 2002 Official Edition, is hereby amended by inserting after the word "gear", in line 147, the following words:- , except that no protective head gear shall be required if the motorcyclist is participating in a properly permitted public parade and is 18 years of age or older.

Approved February 12, 2004.

---

**Chapter 25. AN ACT FURTHER REGULATING THE EARLY RETIREMENT OF ELIGIBLE EMPLOYEES OF THE NASHOBA ASSOCIATED BOARDS OF HEALTH.**

*Whereas*, The deferred operation of this act would tend to defeat its purpose, which is forthwith to regulate further the early retirement of eligible employees of the Nashoba associated boards of health, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

*Be it enacted, etc., as follows:*

Subsection (b) of section 616 of chapter 26 of the acts of 2003 is hereby amended by inserting after the first paragraph the following paragraph:-

An eligible employee of the Nashoba associated boards of health shall file his application for retirement with the state board of retirement not later than April 15, 2004. The retirement date requested shall be June 1, 2004.

Approved February 12, 2004.

**Chapter 26. AN ACT PLACING THE MEMBERS OF THE FIRE DEPARTMENT OF THE TOWN OF ACUSHNET UNDER THE CIVIL SERVICE LAW.**

*Be it enacted, etc., as follows:*

**SECTION 1.** Notwithstanding any general or special law to the contrary, the position of regular or permanent members of the fire department in the town of Acushnet shall be subject to chapter 31 of the General Laws, and the tenure of any incumbent shall be unlimited, subject to said chapter 31.

**SECTION 2.** Firefighter personnel of the fire department of the town of Acushnet hired during the 6 month period preceding the effective date of this act shall be included as civil service employees under chapter 31 of the General Laws, subject to any applicable probationary period.

**SECTION 3.** Incumbents of the fire department of the town of Acushnet shall not be required to pass a qualifying examination for their current position, but shall be required to pass a competitive examination under chapter 31 of the General Laws to obtain a higher rank.

**SECTION 4.** This act shall take effect upon its passage.

Approved February 12, 2004.

---

**Chapter 27. AN ACT RELATIVE TO VACANCIES IN CERTAIN OFFICES IN THE TOWN OF SPENCER.**

*Be it enacted, etc., as follows:*

**SECTION 1.** Section 3 of chapter 523 of the acts of 1979 is hereby amended by striking out, in line 8, the words "twenty five nor more than thirty five" and inserting in place thereof the following words:- 35 nor more than 45.

**SECTION 2.** Section 5 of said chapter 523 is hereby amended by adding the following 2 paragraphs:-

If a removal election results in the membership of a multiple number board, commission or authority being reduced below the number of duly qualified and serving members necessary to constitute a quorum, the vacancy, notwithstanding any general or special law to the contrary, and pending the election of a successor, shall be filled according to the following line of succession: in the order of the longest continuously serving elected town official from among town moderator, town clerk, town treasurer, town collector, assessors, board of health, board of water commissioners and board of sewer commissioners, willing to serve in the vacant position. The town moderator or elected official shall be sworn to the office being filled and shall serve until his successor is elected and duly qualified and sworn, and he shall receive no additional compensation for his service in filling the vacancy.

If a vacancy is temporarily filled as provided in the preceding paragraph, the reconstituted board, commission or authority may act only upon routine ministerial matters as well as licensing and permitting matters within its jurisdiction, and if the board with the multiple vacancies is the board of selectmen, then the board of selectmen may also take actions involving responses to imminent threats or emergency, the appointment of special town counsel in matters where the town counsel must recuse himself, the response to and settlement of laws against the town and the execution of instruments of bonded indebtedness, and agreements for grants-in-aid as previously authorized by a town meeting.

Approved February 12, 2004.

**Chapter 28. AN ACT PROVIDING FOR A FUEL REVOLVING ACCOUNT AT NANTUCKET MEMORIAL AIRPORT.**

*Be it enacted, etc., as follows:*

**SECTION 1.** Notwithstanding section 53E ½ of chapter 44 of the General Laws, the town of Nantucket, acting by and through its town meeting, may establish a revolving fund for the sale of fuel at the Nantucket Memorial Airport to be expended without appropriation by the Airport Commission. This fund may exceed the limit described in said section 53E ½ of 1 per cent of the amount raised by taxation in the most recent year for which a tax rate has been certified.

---

**Chap. 28**

**SECTION 2.** Except as provided in section 1, all other provisions of section 53E ½ of chapter 44 of the General Laws shall apply.

**SECTION 3.** This act shall take effect upon its passage.

Approved February 12, 2004.

**Chapter 29. AN ACT RELATIVE TO THE DEPARTMENT OF FINANCE IN THE TOWN OF BROOKLINE.**

*Be it enacted, etc., as follows:*

**SECTION 1.** Section 3 of chapter 25 of the acts of 1993 is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:- The department shall assume and be responsible for the present functions and statutory duties of the offices of comptroller, treasurer/collector, purchasing and assessing.

**SECTION 2.** Said section 3 of said chapter 25 is hereby further amended by striking out clause x.

**SECTION 3.** The first paragraph of subsection C of section 4 of said chapter 25 is hereby amended by striking out, in lines 3 and 4, the words ", and the development and maintenance functions of information services".

**SECTION 3A.** Said first paragraph of said subsection C of said section 4 of said chapter 25 is hereby further amended by striking out, in line 14, the words ", chief assessor, and manager of information services" and inserting in place thereof the following words:- and chief assessor.

**SECTION 4.** The fourth paragraph of said subsection C of said section 4 of said chapter 25 is hereby amended by striking out the introductory paragraph and inserting in place thereof the following paragraph:-

In addition to supervising and directing the effective functioning of the divisions of treasury, accounts, purchasing and assessing, the director shall have the following powers and duties:-

**SECTION 5.** Said fourth paragraph of said subsection C of said section 4 of said chapter 25 is hereby further amended by striking out clause x.

**SECTION 6.** Section 5 of said chapter 25 is hereby amended by striking out subsection E.

**SECTION 7.** This act shall take effect upon its passage.

Approved February 12, 2004.

---

**Chapter 30. AN ACT AUTHORIZING THE TOWN OF TEWKSBURY OR THE TEWKSBURY CONSERVATION COMMISSION TO CONVEY CERTAIN EASEMENTS TO TENNESSEE GAS PIPELINE COMPANY IN THE TOWN OF TEWKSBURY.**

*Be it enacted, etc., as follows:*

**SECTION 1.** The town of Tewksbury may convey and grant by deed a permanent easement 20 feet in width lying 10 feet to the north and 10 feet to the south of Tennessee Gas Pipeline Company's proposed 6 inch pipeline, more or less, in, under and through a parcel of land located in the town of Tewksbury, together with temporary work space for construction purposes no more than 25 feet wide on the southwest side of this permanent easement to Tennessee Gas Pipeline Company, its successors and assigns, all as shown on a plan of land entitled "Proposed Tewksbury/Andover Lateral Town of Tewksbury, Map 91, Lot 42, Middlesex County, Massachusetts, Figure M91, Lot 42, Scale 1"=200'." This plan is on file with the town of Tewksbury. The right to use this temporary work space shall expire upon completion of construction and restoration.

These easements shall be used to lay, construct, maintain, operate, repair, change the size of, remove or replace the gas transmission line which shall be installed underground, together with appliances and appurtenances necessary thereto.

**SECTION 2.** The town of Tewksbury or the Tewksbury conservation commission may convey and grant by deed a permanent easement 20 feet in width lying 10 feet to the northeast and 10 feet to the southwest of Tennessee Gas Pipeline Company's proposed 6 inch pipeline, more or less, in, under and through a parcel of land located in the town of Tewksbury, presently under the care and control of the conservation commission and used for conservation, together with temporary work space for construction purposes no more than 25 feet wide on the southwest side of said permanent easement to Tennessee Gas Pipeline Company, its successors and assigns, all as shown on a plan of land entitled "Proposed Tewksbury/Andover Lateral Town of Tewksbury, Map 111, Lot 34, Middlesex County, Massachusetts, Figure M111, Lot 34, Scale 1"=100'." Said plan is on file with the town of Tewksbury. The right to use this temporary work space shall expire upon completion of construction and restoration.

Said easements shall be used to lay, construct, maintain, operate, repair, change the size of, remove or replace the gas transmission line which shall be installed underground, together with appliances and appurtenances necessary thereto.

**SECTION 3.** In consideration for the easements authorized in sections 1 and 2, Tennessee Gas Pipeline Company shall pay a fair market value price to be determined by 1 or more independent appraisals with the cost of the appraisal or appraisals to be assumed by the Tennessee Gas Pipeline Company.

**SECTION 4.** This act shall take effect upon its passage.

Approved February 13, 2004.

---

**Chapter 31. AN ACT FURTHER REGULATING CERTAIN STRUCTURES TO BE EXEMPTED FROM CERTAIN HARBOR LINES IN THE MERRIMACK RIVER IN THE CITY OF HAVERHILL.**

*Be it enacted, etc., as follows:*

Section 1 of chapter 90 of the acts of 1996 is hereby amended by adding the following sentence:- In addition to the floating barge authorized to be placed, maintained and repaired pursuant to this section, the Crescent Yacht Club may place 11 modular floating dock sections which shall be of similar size, construction and materials as the existing floats and shall be subject to all other requirements of this section.

Approved February 20, 2004.

**Chapter 32. AN ACT RELATIVE TO SUMMER SPECIAL POLICE OFFICERS IN THE TOWN OF NANTUCKET.**

*Be it enacted, etc., as follows:*

**SECTION 1.** Notwithstanding any contrary provision of the General Laws, the board of selectmen of the town of Nantucket may appoint as a summer special police officer, for the period of May 15 through September 30 any person who is determined by the chief of police to be of good character and meets the physical qualification required of such summer special police officer position. The appointment shall not be subject to the civil service law or rules; nor shall a summer police officer so appointed be entitled to any benefits of such law or rules. A summer special police officer shall not be subject to or entitled to the benefits of any retirement or pension law, nor shall any deduction be made from that officer's compensation for any retirement or pension purpose. A summer special police officer shall be considered an employee of the town for the purposes of workers' compensation. The appointment may be terminated by the appointing authority at any time. A summer special police officer shall receive such compensation and such leave with pay as the board of selectmen shall determine. A summer special police officer shall perform limited police duties, shall not be armed nor make regular police patrols in police vehicles, and shall be primarily assigned to traffic, parking, pedestrian and beach control duties. A summer special police officer shall also perform administrative duties such as taking police reports, answering phones and responding to minor complaints.

**SECTION 2.** This act shall take effect upon its passage.

Approved February 20, 2004.

---

**Chapter 33. AN ACT AUTHORIZING THE TOWN OF FAIRHAVEN TO GRANT AN ADDITIONAL LICENSE FOR THE SALE OF WINES AND MALT BEVERAGES TO BE DRUNK ON THE PREMISES.**

*Be it enacted, etc., as follows:*

**SECTION 1.** Notwithstanding the provisions of section 17 of chapter 138 of the General Laws, the licensing authority of the town of Fairhaven may grant to HP Cooking, Inc., d/b/a Margaret's Restaurant, a license to sell wines and malt beverages to be drunk on the premises at 16 Main Street in the town under section 12 of said chapter 138. The license shall be subject to all of said chapter 138 except said section 17. The license shall not be transferred to another location but may be transferred to another person at the same location.

**SECTION 2.** This act shall take effect upon its passage.

Approved February 26, 2004.

**Chapter 34. AN ACT DESIGNATING A CERTAIN BRIDGE IN THE CITY OF QUINCY AS THE HONORABLE PAUL D. HAROLD MEMORIAL BRIDGE.**

The Quincy Center concourse bridge, connecting Burgin parkway extension and the Parkingway in the city of Quincy, shall be designated and known as the Honorable Paul D. Harold Memorial Bridge, in memory of Paul D. Harold, a former city council president, state senator and Norfolk county register of deeds, who devoted his life to public service.

The department of highways shall erect suitable markers bearing said designation in compliance with the standards of said department. The department of public works for the city of Quincy shall be responsible for the maintenance of said markers.

Approved February 26, 2004.

**Chapter 35. AN ACT RELATIVE TO THE PAYMENT OBLIGATIONS OF THE CITY OF BROCKTON UNDER A WATER SUPPLY CONTRACT.**

*Be it enacted, etc., as follows:*

**SECTION 1.** Notwithstanding any general or special law to the contrary, the mayor of the city of Brockton may amend the water purchase agreement between the city of Brockton and Inima, Servicios Europeos de Medio Ambiente, S.A., jointly with Bluestone Energy Services, Inc. dated as of May 22, 2002 to provide that the payment obligations of the city for the payment of which the full faith and credit of the city shall be pledged and any failure by the city to appropriate or otherwise make available the funds necessary to satisfy a payment obligation of the city under the agreement shall not in and of itself exempt the city

---

**Chap. 35**

from liability for such payment obligation or provide the city with the right to cancel the agreement.

**SECTION 2.** This act shall take effect upon its passage.

Approved February 26, 2004.

**Chapter 36. AN ACT RELATIVE TO ANNUAL ELECTIONS IN THE TOWN OF NORTH ANDOVER.**

*Be it enacted, etc., as follows:*

**SECTION 1.** Section 1-1 of chapter 8 of the charter for the town of North Andover, as appearing in chapter 96 of the acts of 1997, is hereby amended by striking out the word "first" and inserting in place thereof the following word:- last.

**SECTION 2.** This act shall take effect upon its passage.

Approved March 5, 2004.

**Chapter 37. AN ACT RELATIVE TO PARKING VIOLATIONS IN THE TOWN OF MARBLEHEAD.**

*Be it enacted, etc., as follows:*

**SECTION 1.** Notwithstanding any general or special law to the contrary, the board of selectmen of the town of Marblehead may establish a schedule of fines for parking violations. Except for the fines for parking within 10 feet of a fire hydrant, the fines in the schedule shall not exceed \$50.00, if paid within 21 days; \$55.00 if paid thereafter but before the parking clerk reports to the registrar as provided in section 20A ½ of chapter 90 of the General Laws; and \$70.00 if paid thereafter.

**SECTION 2.** This act shall take effect upon its passage.

Approved March 5, 2004.

**Chapter 38. AN ACT RELATIVE TO THE DIGHTON WATER DISTRICT.**

*Be it enacted, etc., as follows:*

**SECTION 1.** The Dighton Water District may provide by rules for the imposition of reasonable fees for the employment of outside consultants and shall account for and expend such funds in accordance with section 53G of chapter 44 of the General Laws.

**SECTION 2.** This act shall take effect upon its passage.

Approved March 5, 2004.

**Chapter 39. AN ACT AUTHORIZING THE TOWN OF BRIDGEWATER TO GRANT AN ADDITIONAL LICENSE FOR THE SALE OF ALL ALCOHOLIC BEVERAGES NOT TO BE DRUNK ON THE PREMISES.**

*Be it enacted, etc., as follows:*

Notwithstanding section 17 of chapter 138 of the General Laws, the licensing authority of the town of Bridgewater may grant to N.A.R.H., Inc., doing business as Wine, Beer and More and located at 1440B Pleasant Street in said town, a license to sell all alcoholic beverages not to be drunk on the premises under section 15 of said chapter 138. The license shall be subject to all of said chapter 138 except said section 17. The license shall not be transferred to another location but may be transferred to another person at the same location.

Approved March 5, 2004.

**Chapter 40. MAKING APPROPRIATIONS FOR THE FISCAL YEAR 2004 TO PROVIDE FOR SUPPLEMENTING CERTAIN EXISTING APPROPRIATIONS AND FOR CERTAIN OTHER ACTIVITIES AND PROJECTS.**

*Whereas*, the deferred operation of this act would tend to defeat its purpose, which is forthwith to make appropriations for the fiscal year beginning July 1, 2003, and to make certain changes in law, each of which is immediately necessary or appropriate to effectuate said appropriations or for other important public purposes, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

*Be it enacted, etc., as follows:*

**SECTION 1.** To provide for supplementing certain items in the general appropriation act and other appropriation acts for fiscal year 2004, the sums set forth in section 2 are hereby appropriated from the General Fund unless specifically designated otherwise in this act or in said appropriation acts, for the several purposes and subject to the conditions specified in this act or in said appropriation acts and subject to laws regulating the disbursement of public funds for the fiscal year ending June 30, 2004. The sums in said section 2 shall be in addition to any amounts previously appropriated and made available for

## Chap. 40

the purposes of those items.

### SECTION 2.

#### EXECUTIVE OFFICE FOR ADMINISTRATION AND FINANCE

*Office of the Secretary for Administration and Finance.*

1599-1971 ..... \$35,000,000

#### EXECUTIVE OFFICE OF HEALTH AND HUMAN SERVICES

*Department of Veterans' Services.*

1410-0400 ..... \$3,200,000

*Department of Transitional Assistance.*

4403-2000 ..... \$2,649,268

4405-2000 ..... \$2,575,020

4408-1000 ..... \$2,988,213

**SECTION 2A.** To provide for certain unanticipated obligations of the commonwealth, to provide for an alteration of purpose for current appropriations, and to meet certain requirements of law, the sums set forth in this section are hereby appropriated from the General Fund unless specifically designated otherwise, for the several purposes and subject to the conditions specified in this section, and subject to laws regulating the disbursement of public funds for the fiscal year ending June 30, 2004. The sums shall be in addition to any amounts previously appropriated and made available for the purposes of these items.

*Secretary of the Commonwealth.*

0521-2004 For the costs necessary to reimburse the state secretary for the cost associated with the special election held on March 2, 2004 ..... \$75,421

#### EXECUTIVE OFFICE FOR ADMINISTRATION AND FINANCE

*Office of the Secretary for Administration and Finance.*

1599-8085 For public safety costs associated with homeland security; provided, that the secretary of administration and finance may transfer from the sum appropriated in this item to other items of appropriation and allocations thereof for fiscal year 2004 such amounts as are necessary to meet those costs where the amounts otherwise available are insufficient for the purpose . . . \$5,700,000

**SECTION 3.** The first sentence of section 132 of chapter 140 of the acts of 2003 hereby amended by striking out the word "hospital".

---

**Chap. 40**

**SECTION 4.** The second sentence of said section 132 of said chapter 140 is hereby amended by striking out the word "hospital".

**SECTION 5.** The last sentence of said section 132 of said chapter 140 is hereby amended by striking out the words "under managed care contracts" and inserting in place thereof the following words:-on or after July 1, 2003 under managed care contracts.

**SECTION 6.** Section 133 of said chapter 140 is hereby amended by striking out the second sentence.

**SECTION 7.** The third sentence of said section 133 of said chapter 140 is hereby amended by adding the following words:-and entities responsible for the payment of liabilities related to former municipally-owned hospitals.

**SECTION 8.** Said section 133 of said chapter 140 is hereby further amended by striking out the fourth sentence.

**SECTION 9.** Section 136 of said chapter 140 is hereby amended by striking out the words "and 125A to 129, inclusive" and inserting in place thereof the following words:-125A to 129, inclusive, 132 and 133.

Approved March 5, 2004.

**Chapter 41. AN ACT AUTHORIZING THE TOWN OF PEPPERELL TO PLACE A CERTAIN QUESTION ON THE BALLOT AUTHORIZING THE SALE OF WINES AND MALT BEVERAGES TO BE DRUNK ON THE PREMISES.**

*Be it enacted, etc., as follows:*

**SECTION 1.** Notwithstanding any limitations imposed by section 11 of chapter 138 of the General Laws as to the time and manner of voting on this question, the board of selectmen of the town of Pepperell shall cause to be placed on the official ballot used in the town by the registered voters for the election of officers to be held in April 2004 the following question:

"Shall licenses be granted in the town of Pepperell for the sale of wines and malt beverages (wines, beer, ale and other malt beverages) to be drunk on the premises?"

If a majority of the votes cast in answer to that question is in the affirmative, the town shall be taken to have authorized the sale of wines and malt beverages to be drunk on the premises. The licenses shall be subject to all other provisions of said chapter 138.

**SECTION 2.** This act shall take effect upon its passage.

Approved March 8, 2004.

---

**Chapter 42. AN ACT AUTHORIZING THE TOWN OF BELMONT TO DESIGNATE A CHECKOFF ON ITS TAX BILL FOR THE TOWN'S GENERAL FUND.**

*Be it enacted, etc., as follows:*

**SECTION 1.** The town of Belmont may, subject to the approval of the commissioner of revenue, designate a place on its municipal tax bills, or the motor vehicle excise tax bills, or mail with such tax bills a separate form, whereby the taxpayers of the town can voluntarily checkoff, donate and pledge an amount not less than \$1 or such other designated amount which shall increase the amount otherwise due, and which shall be added to the general fund of the town and be used for municipal purposes of the town.

**SECTION 2.** This act shall take effect upon its passage.

Approved March 12, 2004.

**Chapter 43. AN ACT PROVIDING FOR THE ANNUAL OBSERVANCE OF JACK KEROUAC DAY.**

*Be it enacted, etc., as follows:*

Chapter 6 of the General Laws is hereby amended by inserting after section 15UUUU, inserted by chapter 12 of the acts of 2004, the following section:-

Section 15VVVV. The governor shall annually issue a proclamation setting apart March 12 as Jack Kerouac Day, in recognition of Jack Kerouac's contributions to American literature and the genre of spontaneous prose, for his contributions to his Franco-American heritage, and for his love of his hometown of Lowell, and recommending that said day be observed in an appropriate manner by the people.

Approved March 12, 2004.

**Chapter 44. AN ACT ESTABLISHING A SICK LEAVE BANK FOR SANDRA DELGAUDIO-UPTON, AN EMPLOYEE OF THE TRIAL COURT.**

*Whereas*, The deferred operation of this act would tend to defeat its purpose, which is to establish forthwith a sick leave bank for a certain employee of the trial court, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

*Be it enacted, etc., as follows:*

Notwithstanding any general or special law to the contrary, the trial court shall establish a sick leave bank for Sandra DelGaudio-Upton, an employee of the Somerville dis-

---

## **Chap. 44**

trict court. Any employee of the trial court may voluntarily contribute 1 or more sick, personal or vacation days to the sick leave bank for use by Sandra DelGaudio-Upton. Whenever Sandra DelGaudio-Upton terminates employment with the trial court or requests to dissolve the sick leave bank, the balance of sick leave shall be transferred to the trial court paid leave bank.

Approved March 12, 2004.

## **Chapter 45. AN ACT PROVIDING FOR A CLERK OF THE CITY COUNCIL OF THE CITY OF NORTHAMPTON.**

*Be it enacted, etc., as follows:*

**SECTION 1.** Section 15 of chapter 250 of the acts of 1883 is hereby amended by adding the following sentence:- The city council shall appoint a clerk of the council to carry out the duties assigned by the president of the city council and to perform the duties specified by law.

**SECTION 2.** Section 17 of said chapter 250 is hereby amended by striking out the first and second sentences and inserting in place thereof the following sentence:- The city clerk shall be sworn to the faithful performance of his duties and shall perform all the duties and exercise all the powers incumbent by law upon him.

Approved March 12, 2004.

## **Chapter 46. AN ACT AUTHORIZING THE TOWN OF MENDON TO ESTABLISH A CAPITAL EXPENDITURE FUND.**

*Be it enacted, etc., as follows:*

**SECTION 1.** The town of Mendon may establish and maintain a special account to be known as the Capital Expenditure Fund and may raise and appropriate money for the fund.

**SECTION 2.** The town may appropriate to the fund by a majority vote at an annual or special town meeting in any year an amount not to exceed \$100,000 in each fiscal year.

**SECTION 3.** The account shall be maintained by the town treasurer as a separate account. The town treasurer may invest the funds in the separate account in the manner provided by sections 55 and 55A of chapter 44 of the General Laws. Any interest earned on the fund shall be credited to and become part of the account.

**SECTION 4.** The town may appropriate by a 2/3 vote at any annual or special town meeting any principal and interest in the fund for any capital purchase or debt payment for

---

## Chap. 46

any capital purchase. A capital purchase shall be defined as any item with a life expectancy of more than 5 years and valued at \$25,000 or more.

**SECTION 5.** This act shall take effect upon its passage.

Approved March 12, 2004.

## **Chapter 47. AN ACT MAKING SPECIAL PROVISIONS FOR AN ELECTION IN THE TOWN OF WEBSTER TO FILL A VACANCY IN THE BOARD OF SELECTMEN AND IN THE OFFICE OF MODERATOR.**

*Be it enacted, etc., as follows:*

**SECTION 1.** Notwithstanding any general or special law to the contrary, the town of Webster shall print on the ballot for the May 3, 2004 annual town election the names of candidates nominated for the office of selectman for a one-year term and moderator for a three-year term to fill a vacancy. Nomination papers for these offices may be obtained until the filing deadline for certification of signatures. Such nomination papers shall be filed with the board of registrars for certification of signatures not later than 5:00 p.m. on Wednesday, March 24, 2004. The board of registrars shall complete certification of signatures on such papers not later than noon on Monday, March 29, 2004. Such nomination papers shall be filed with the town clerk not later than 5:00 p.m. on Monday, March 29, 2004. All other dates set forth in the General Laws pertaining to the election shall apply.

**SECTION 2.** This act shall in no way limit a candidate for any other office from filing nomination papers for the vacant selectman seat or office of moderator and withdrawing as a candidate for any other position, as long as such withdrawal is filed not later than 5:00 p.m. on Wednesday, March 31, 2004.

**SECTION 3.** This act shall take effect upon its passage.

Approved March 18, 2004.

## **Chapter 48. AN ACT ESTABLISHING A SICK LEAVE BANK FOR JOANNE M. SOLLECITO, AN EMPLOYEE OF THE DEPARTMENT OF CORRECTION.**

*Whereas*, The deferred operation of this act would tend to defeat its purpose, which is to establish forthwith a sick leave bank for a certain employee of the department of correction, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

*Be it enacted, etc., as follows:*

---

**Chap. 48**

Notwithstanding any general or special law, rule or regulation to the contrary, the department of correction shall establish a sick leave bank for Joanne M. Sollecito, an employee of said department. Any employee of said department may voluntarily contribute 1 or more of his sick, personal or vacation days to the sick leave bank for use by said Joanne M. Sollecito. Whenever Joanne Sollecito terminates employment with said department or requests to dissolve said sick leave bank, the balance of the sick leave time shall be transferred to the extended illness leave bank.

Approved March 25, 2004.

**Chapter 49. AN ACT AUTHORIZING THE TOWN OF DEDHAM TO REIMBURSE CERTAIN SEWER FEES PAID IN ERROR.**

*Be it enacted, etc., as follows:*

**SECTION 1.** Notwithstanding any general or special law or by-law to the contrary, the town of Dedham may reimburse Geraldine B. Bacon the sum of \$572.99 for the period of February 1989 to May 1996, inclusive, and Clarke Coggeshall the sum of \$2,410.87 for the period of November 17, 1992 to May 15, 1996, inclusive, for sewer fees erroneously paid to the town.

**SECTION 2.** This act shall take effect upon its passage.

Approved March 25, 2004.

**Chapter 50. AN ACT REQUIRING PILOTS FOR CERTAIN VESSELS.**

*Be it enacted, etc., as follows:*

**SECTION 1.** Section 21 of chapter 103 of the General Laws, as appearing in the 2002 Official Edition, is hereby amended by inserting after the word "departing", in line 4, the following words:- in transit.

**SECTION 2.** Said section 21 of said chapter 103, as so appearing, is hereby amended by adding the following paragraph:-

Any persons duly licensed by the United States Coast Guard as mate or master of a United States steam or motor vessel, of unlimited gross tons upon oceans, with a United States Coast Guard first class pilot endorsement for the waters of Cape Cod Bay, Cape Cod Canal, Buzzards Bay, Nantucket Sound or Vineyard Sound, may apply to the district 3 commissioner of pilots for a transit commission to navigate in those waters. A person so applying shall present proof of 15 round trips as a pilot or as a pilot under instruction or equivalent transits over those waters within the past 3 years before the date of application,

---

## Chap. 50

as well as any federal course certifications as may be required.

**SECTION 3.** Any person holding a United States Coast Guard first class pilot endorsement for those waters, including a minimum of 15 active pilot transits on vessels engaged in foreign trade within the 3 years before July 1, 2003, shall qualify and be commissioned as a transit pilot for the waters for which that person is licensed. For all others, upon approval of the district 3 commissioner of pilots, any person so qualified shall be commissioned as a transit pilot for the waters for which that person is licensed.

Approved March 25, 2004.

## **Chapter 51. AN ACT EXTENDING THE TIME FOR POLITICAL PARTY COMMITTEES TO ORGANIZE IN THE CURRENT YEAR.**

*Whereas*, The deferred operation of this act would tend to defeat its purpose, which is forthwith to extend the time for political party committees to organize in April of the current year, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

*Be it enacted, etc., as follows:*

Notwithstanding sections 1 and 4 of chapter 52 of the General Laws, in the current year a state, city, ward or town committee of a political party shall meet and organize within 20 days after the thirtieth day following the election of its members.

Approved March 26, 2004.

## **Chapter 52. AN ACT PROVIDING FOR A SPECIAL ELECTION TO FILL A VACANCY ON THE BOARD OF SELECTMEN IN THE TOWN OF WILMINGTON.**

*Be it enacted, etc., as follows:*

**SECTION 1.** Section 3 of chapter 592 of the acts of 1950 is hereby amended by striking out the last sentence and inserting in place thereof the following sentence:- When a vacancy occurs among the selectmen by reason of death, resignation, change of residence from the town, or other disability, the remaining board of selectmen shall order a special election to be held not less than 65 days and not more than 90 days following notification of the vacancy at which the voters shall elect a selectman for the remainder of the unexpired term.

**SECTION 2.** This act shall be submitted for acceptance to the voters of the town of Wilmington at the annual town meeting to be held in the year 2004 in the form of the follow-

---

## Chap. 52

ing question which shall be placed on the official ballot to be used for the election of town officers:-

"Shall an act passed by the general court in the year 2004 entitled 'An Act providing for a special election to fill a vacancy on the board of selectmen in the town of Wilmington' be accepted?" If a majority of votes cast in answer to the question is in the affirmative, the act shall take effect but not otherwise.

*This bill was returned by the Governor to the House of Representatives, the branch in which it originated, with his objections thereto, was passed by the House on March 11, 2004 and in concurrence by the Senate on March 25, 2004, the objections of the Governor notwithstanding, in the manner prescribed by the Constitution, and therefore has the force of law.*

## Chapter 53. AN ACT RELATIVE TO THE OFF-STREET PARKING BOARD IN THE CITY OF WORCESTER.

*Be it enacted, etc., as follows:*

**SECTION 1.** Section 2 of chapter 365 of the acts of 1955 is hereby amended by striking out the second and third paragraphs and inserting in place thereof the following 2 paragraphs:-

The off-street parking board of the city of Worcester may establish the rates and charges for the use of the off-street parking facilities, structures and garages, placed under its care, custody and control by the city manager and city council of the city. The board may delegate the authority to fix the rates and charges, in whole or in part, to any individual or entity which operates or manages any such off-street parking facility under a contract awarded by the city of Worcester. The board shall ensure that any rates and charges set under authority of this act shall carry out the purposes of this act, be reasonably competitive with the rates charged by other off-street parking facilities and shall generate revenues to meet all costs associated with the construction, operation, maintenance and repair of all off-street parking facilities, which costs shall include debt service, any insufficiency accumulated in prior fiscal years and a reserve for placement not exceeding 5 per cent of the revenue generated by a municipal parking facility in any fiscal year. Revenue generated in excess of said amounts shall be considered excess revenue. Receipts from the operation of off-street parking facilities, including any parking meters installed in off-street parking areas, which have been placed under the care and custody of the board shall be considered to be off-street parking receipts and shall be collected and deposited with the city treasurer, who shall keep the same in a separate account known as the off-street parking fund to be expended in accordance with law. If in any year such receipts are insufficient to meet the costs incurred by the board, the city of Worcester shall transfer the amount of the insufficiency from available funds, including the parking meter fees fund, any other provision of law to the contrary notwithstanding.

---

## Chap. 53

In the event that any off-street parking facility acquired or constructed by the Worcester redevelopment authority as part of any urban renewal project for which said authority shall have received funding from the city of Worcester shall be conveyed to the city and placed under the care, custody and control of the board, the city of Worcester may transfer any amount of excess revenue generated by the facility from the off-street parking fund to the general fund of the city to recover any amount certified by the city auditor of the city of Worcester as provided by the city to the authority for urban renewal purposes and not otherwise repaid to the city by state or federal grants.

**SECTION 2.** Section 3 of chapter 365 of the acts of 1955 is hereby amended by striking out, in lines 8 and 9, the words "for the awarding of contracts under section twenty-eight of chapter forty-three " and inserting in place thereof the following words:- by chapter 30B.

**SECTION 3.** Said section 3 of said chapter 365 is hereby further amended by inserting after the first sentence the following sentence:- In the event that the city of Worcester acquires a parking structure, garage or facility from the Worcester redevelopment authority, nothing in this act or any other general or special law shall prevent the assignment of an existing contract for the operation and management of the facility from the authority to the city.

**SECTION 4.** Section 4 of said chapter 365, as most recently amended by chapter 58 of the acts of 1970, is hereby further amended by striking out, in line 4, the words "seven million dollars" and inserting in place thereof the following words:- 1/2 of 1 per cent of the equalized valuation of the city of Worcester, as may be determined from time to time by the department of revenue.

**SECTION 5.** Said chapter 365 is hereby further amended by striking out section 5 and inserting in place thereof the following section:-

*Section 5.* The term "off-street parking facilities" shall mean any lot, structure, garage or other real or personal property designed or used for the purpose of, or associated with, parking motorized vehicles which are placed under the control of the off-street parking board by vote of the city council upon the recommendation of the city manager.

**SECTION 6.** Section 1 of chapter 342 of the acts of 2002 is hereby amended by adding the following sentence:- Nothing in this act shall prevent the city from exercising authority expressly provided by the General Laws to establish fines for specific parking violations exceeding \$50 or to increase the fine by \$5 if not paid within 21 days and by an additional \$15 if not paid when the parking clerk notifies the registrar of motor vehicles of the unpaid violation.

**SECTION 7.** This act shall take effect upon its passage.

Approved April 1, 2004.

---

**Chapter 54. AN ACT DESIGNATING A CERTAIN BRIDGE IN THE TOWN OF CANTON AS THE JOHN E. FARRINGTON BRIDGE.**

*Be it enacted, etc., as follows:*

The bridge located on state highway route 138 and spanning interstate highway route 93 in the town of Canton shall be designated and known as the John E. Farrington Bridge. The department of highways shall erect and maintain a suitable marker on the bridge bearing this designation in compliance with the standards of the department.

Approved April 1, 2004.

**Chapter 55. AN ACT AUTHORIZING THE APPOINTMENT OF KENNETH E. WRIGHT AS A POLICE OFFICER IN THE TOWN OF MANSFIELD.**

*Be it enacted, etc., as follows:*

**SECTION 1.** The personnel administrator of the human resources division shall certify Kenneth E. Wright to be eligible for original appointment to the position of police officer in the town of Mansfield according to the grade he received on the examination for police officer, notwithstanding the maximum age for the position. If Kenneth E. Wright meets all other requirements for certification as a police officer, the town of Mansfield may appoint him.

**SECTION 2.** This act shall take effect upon its passage.

Approved April 1, 2004.

**Chapter 56. AN ACT DESIGNATING STATE HIGHWAY ROUTE 146A IN THE TOWN OF UXBRIDGE AS THE LYDIA TAFT HIGHWAY.**

*Be it enacted, etc., as follows:*

State highway route 146A from state highway route 122 to the Rhode Island state boundary shall be designated and known as the Lydia Taft Highway, in recognition of Mrs. Taft's unique role in American history as America's first woman voter. The department of highways shall erect and maintain suitable markers in accordance with the standards of said department bearing the inscription "Lydia Taft Highway - Commemorating America's First Woman Voter - 1756".

Approved April 1, 2004.

---

**Chapter 57. AN ACT RELATIVE TO A BETTERMENT ASSESSMENT IN THE TOWN OF STURBRIDGE.**

*Be it enacted, etc., as follows:*

Notwithstanding section 5 of chapter 80 of the General Laws or any other general or special law to the contrary, the town of Sturbridge may abate a sewer betterment assessment on parcels 32 and 53 Beach avenue in the town, notwithstanding the expiration of the 6 month appeal period in said section 5 of said chapter 80.

Approved April 1, 2004.

**Chapter 58. AN ACT AUTHORIZING THE COMMISSIONER OF CAPITAL ASSET MANAGEMENT AND MAINTENANCE TO CONVEY CERTAIN LAND TO THE ROXBURY/SOUTH END TENANTS' COUNCIL, INC., D/B/A ROXSE TENANTS COUNCIL.**

*Whereas*, The deferred operation of this act would tend to defeat its purpose, which is to convey forthwith a certain parcel of land in the city of Boston for the development of affordable housing, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

*Be it enacted, etc., as follows:*

**SECTION 1.** The commissioner of capital asset management and maintenance may convey, notwithstanding sections 40E to 40I, inclusive, of chapter 7 of the General Laws or any other general or special law to the contrary, a certain parcel of commonwealth land located at Melnea Cass Boulevard in the city of Boston, generally shown as parcel 24F on a "Land Transfer Plan, Parcel 24" prepared for the Massachusetts Housing Finance Agency by Bryant Associates, Inc., dated February 25, 1998 to the Roxbury/South End Tenants' Council, Inc., d/b/a Roxse Tenants Council, to facilitate affordable housing development. The parcel will be conveyed by release deed in its existing condition without warranties or representations by the commonwealth. The commissioner shall determine the exact boundaries and acreage of the parcel based upon a survey of the parcel.

**SECTION 2.** The consideration to be paid by the Roxbury/South End Tenants' Council, Inc., d/b/a Roxse Tenants Council, to the commonwealth for the parcel shall be not less than the full and fair market value for the parcel. The value of the parcel shall be determined by the commissioner of the division of capital asset management and maintenance based upon an independent professional appraisal. The commissioner shall, 45 days before the conveyance authorized by section 1, submit the appraisal and a report thereon to the inspector general. The inspector general shall review and approve the appraisal and the review shall include an examination of the methodology used for the appraisal. Within 30 days of receipt of the appraisal, the inspector general shall prepare a report of his review

---

## Chap. 58

and approval of the appraisal and file the report with the commissioner. The commissioner shall forward copies of the inspector general's report to the house and senate committees on ways and means and to the chairmen of the joint committee on state administration at least 15 days before the conveyance.

**SECTION 3.** The Roxbury/South End Tenants' Council, Inc., d/b/a Roxse Tenants Council, shall pay all expenses associated with any land survey, appraisal, title examinations, recording fees and any other expenses relating to the conveyance of the parcel, and shall be responsible for all costs, liabilities and expenses of any nature and kind for its ownership.

The deed or other instrument conveying the parcel to the Roxbury/South End Tenants' Council, Inc., d/b/a Roxse Tenants Council and any subsequent deed or deeds of all or a portion of the parcels shall, without limitation, provide that if the parcels cease to be used for the purposes set forth in this act, title to the parcels or to portions of the parcels that are used in violation of this act, shall, at the election of the commonwealth, revert to the commonwealth.

Approved April 1, 2004.

## Chapter 59. AN ACT RELATIVE TO ANNUITY CONTRACTS.

*Be it enacted, etc., as follows:*

**SECTION 1.** Chapter 175 of the General Laws is hereby amended by inserting after Section 144A the following section:-

Section 144A 1/2. (a) In the case of contracts issued on or after the effective date of this section, no contract of annuity, except as set forth in section 13, shall be delivered or issued for delivery in the commonwealth unless it contains in substance the following provisions, or corresponding provisions which in the opinion of the commissioner are at least as favorable to the contract holder, upon cessation of payment of considerations under the contract:

(1) That upon cessation of payment of considerations under a contract, or upon the written consent of the contract owner the company shall grant a paid-up annuity benefit on a plan stipulated in the contract of such value as is specified in subsections (d), (e), (f), (g) and (i).

(2) If a contract provides for a lump sum settlement at maturity, or at any other time, that upon surrender of the contract at or prior to the commencement of any annuity payments, the company shall pay in lieu of any paid-up annuity benefit a cash surrender benefit of such amount as is specified in subsections (d), (e), (f), (g) and (i). The company may reserve the right to defer the payment of such cash surrender benefit for a period not to exceed 6 months after demand therefor with surrender of the contract after making written request and receiving written approval of the commissioner. The request shall address the necessity and equitability to all policyholders of the deferral.

(3) A statement of the mortality table, if any, and interest rates used in calculating any minimum paid-up annuity, cash surrender or death benefits that are guaranteed under the contract, together with sufficient information to determine the amount of such benefits.

(4) A statement that any paid-up annuity, cash surrender or death benefits that may be available under the contract are not less than the minimum benefits required by any statute of the commonwealth in which the contract is delivered and an explanation of the manner in which such benefits are altered by the existence of any additional amounts credited by the company to the contract, any indebtedness to the company on the contract or any prior withdrawals from or partial surrenders of the contract.

Notwithstanding the requirements of this section, any deferred annuity contract may provide that if no considerations have been received under a contract for a period of 2 full years and the portion of the paid-up annuity benefit at maturity on the plan stipulated in the contract arising from considerations paid prior to such period would be less than \$20 monthly, the company may at its option terminate such contract by payment in cash of the then present value of such portion of the paid-up annuity benefit, calculated on the basis of the mortality table, if any, and interest rate specified in the contract for determining the paid-up annuity benefit, and by such payment shall be relieved of any further obligation under such contract.

(b) The minimum values as specified in subsections (d), (e), (f), (g) and (i) of any paid-up annuity, cash surrender or death benefits available under an annuity contract shall be based upon the following nonforfeiture amounts:

(1) The minimum nonforfeiture amount at any time at or before the commencement of any annuity payments shall be equal to an accumulation up to such time at a rate of interest as indicated in subsection (c) of the net considerations, as hereinafter defined, paid prior to such time, decreased by the sum of:

(i) any prior withdrawals from or partial surrenders of the contract accumulated at rates of interest as indicated in said subsection (c);

(ii) an annual contract charge of \$50, accumulated at rates of interest as indicated in said subsection (c);

(iii) any premium tax paid by the company for the contract, accumulated at rates of interest as indicated in said subsection (c); and

(iv) the amount of any indebtedness to the company on the contract, including interest due and accrued.

(2) The net considerations for a given contract year used to define the minimum nonforfeiture amount shall be an amount equal to 87 1/2 per cent of the gross considerations credited to the contract during that contract year.

(c) The interest rate used in determining minimum nonforfeiture amounts shall be an annual rate of interest determined as the lesser of 3 per cent per annum and the following, which shall be specified in the contract if the interest rate will be reset:-

(1) the 5 year constant maturity treasury rate reported by the Federal Reserve as of

a date, or average over a period, rounded to the nearest 1/20th of 1 per cent, specified in the contract no longer than 15 months prior to the contract issue date or redetermination date under clause (4);

(2) reduced by 125 basis points;

(3) where the resulting interest guarantee is not less than 1 per cent; and

(4) the interest rate shall apply for an initial period and may be redetermined for additional periods. The redetermination date, basis and period, if any, shall be stated in the contract. The basis is the date or average over a period that produces the value of the 5 year constant maturity treasury rate to be used at each redetermination date.

Notwithstanding subsections (b) and (c), during the period or term that a contract provides substantive participation in an equity indexed benefit, it may increase the reduction described in clause (2) by up to an additional 100 basis points to reflect the value of the equity index benefit. The present value at the contract issue date, and at each redetermination date thereafter, of the additional reduction shall not exceed the market value of the benefit. The commissioner may require a demonstration that the present value of the reduction does not exceed the market value of the benefit. Lacking such a demonstration that is acceptable to the commissioner, the commissioner may disallow or limit the additional reduction.

The commissioner may adopt regulations to implement the preceding paragraph and to provide for further adjustments to the calculation of minimum nonforfeiture amounts for contracts that provide substantive participation in an equity index benefit and for other contracts that the commissioner determines adjustments are justified.

(d) Any paid-up annuity benefit available under a contract shall be such that its present value on the date annuity payments are to commence is at least equal to the minimum nonforfeiture amount on that date. The present value shall be computed using the mortality table, if any, and the interest rates specified in the contract for determining the minimum paid-up annuity benefits guaranteed in the contract.

(e) For contracts which provide cash surrender benefits, such cash surrender benefits available prior to maturity shall not be less than the present value as of the date of surrender of that portion of the maturity value of the paid-up annuity benefit which would be provided under the contract at maturity arising from considerations paid before the time of cash surrender reduced by the amount appropriate to reflect any prior withdrawals from or partial surrenders of the contract, the present value being calculated on the basis of an interest rate not more than 1 per cent higher than the interest rate specified in the contract for accumulating the net considerations to determine the maturity value, decreased by the amount of indebtedness to the company on the contract, including interest due and accrued, and increased by any existing additional amounts credited by the company to the contract. In no event shall the cash surrender benefit be less than the minimum nonforfeiture amount at that time. The death benefit under the contracts shall be at least equal to the cash surrender benefit.

(f) For contracts which do not provide cash surrender benefits, the present value of any paid-up annuity benefit available as a nonforfeiture option at any time before maturity shall not be less than the present value of that portion of the maturity value of the paid-up annuity benefit provided under the contract arising from considerations paid before the time the contract is surrendered in exchange for, or changed to, a deferred paid-up annuity, the present value being calculated for the period before the maturity date on the basis of the interest rate specified in the contract for accumulating the net considerations to determine the maturity value, and increased by any existing additional amounts credited by the company to the contract. For contracts which do not provide any death benefits before commencement of any annuity payments, the present values shall be calculated on the basis of the interest rate and the mortality table specified in the contract for determining the maturity value of the paid-up annuity benefit; but, in no event shall the present value of a paid-up annuity benefit be less than the minimum nonforfeiture amount at that time.

(g) For the purpose of determining the benefits calculated under subsections (e) and (f), in the case of annuity contracts under which an election may be made to have annuity payments commence at optional maturity dates, the maturity date shall be considered to be the latest date for which election shall be permitted by the contract, but shall not be considered to be later than the anniversary of the contract next following the annuitant's 70th birthday or the tenth anniversary of the contract, whichever is later.

(h) Any contract which does not provide cash surrender benefits or does not provide death benefits at least equal to the minimum nonforfeiture amount before the commencement of any annuity payments shall include a statement in a prominent place in the contract that the benefits are not provided.

(i) Any paid-up annuity, cash surrender or death benefits available at any time, other than on the contract anniversary under any contract with fixed scheduled considerations, shall be calculated with allowance for the lapse of time and the payment of any scheduled considerations beyond the beginning of the contract year in which cessation of payment of considerations under the contract occurs.

(j) For any contract which provides, within the same contract by rider or supplemental contract provision, both annuity benefits and life insurance benefits that are in excess of the greater of cash surrender benefits or a return of the gross considerations with interest, the minimum nonforfeiture benefits shall be equal to the sum of the minimum nonforfeiture benefits for the annuity portion and the minimum nonforfeiture benefits, if any, for the life insurance portion computed as if each portion were a separate contract. Notwithstanding subsections (d), (e), (f), (g) and (i), additional benefits payable: (1) in the event of total and permanent disability, (2) as reversionary annuity or deferred revisionary annuity benefits or (3) as other policy benefits additional to life insurance, endowment and annuity benefits and considerations for all the additional benefits, shall be disregarded in ascertaining the minimum nonforfeiture amounts, paid-up annuity, cash surrender and death benefits that may be required by this section. The inclusion of the additional benefits shall

---

## Chap. 59

not be required in any paid-up benefits, unless the additional benefits separately would require minimum nonforfeiture amounts, paid-up annuity, cash surrender and death benefits.

(k) The commissioner may adopt regulations to implement this section.

(l) Notwithstanding subsection (a), upon the effective date of this section, a company may elect to: (1) apply this section to annuity contracts on a contract form-by-contract form basis or (2) comply with section 144A.

(m) This section shall not apply to any reinsurance, group annuity purchased under a retirement plan or plan of deferred compensation established or maintained by an employer, including a partnership or sole proprietorship, or by an employee organization, or by both, other than a plan providing individual retirement accounts or individual retirement annuities under Section 408 of the Internal Revenue Code, premium deposit fund, variable annuity, investment annuity, immediate annuity, any deferred annuity contract after annuity payments have commenced, or reversionary annuity, nor to any contract which shall be delivered outside the commonwealth through an agent or other representative of the company issuing the contract.

**SECTION 2.** Section 144A of said chapter 175 is hereby repealed.

**SECTION 3.** Section 2 shall take effect on June 1, 2005.

Approved April 1, 2004.

## **Chapter 60. AN ACT DESIGNATING A CERTAIN ROADWAY IN THE VETERANS' MEMORIAL CEMETERY IN THE TOWN OF WINCHENDON.**

*Be it enacted, etc., as follows:*

The department of veterans' services may designate the cortege roadway in the Veterans' Memorial Cemetery in the town of Winchendon as the Charles E. Grout-Winchendon Lane, in honor of Charles E. Grout, the late veterans service officer in said town. Said department shall erect suitable markers bearing said designation in compliance with the standards of said department.

Approved April 1, 2004.

## **Chapter 61. AN ACT RELATIVE TO CERTAIN HOUSING IN THE CITY KNOWN AS THE TOWN OF METHUEN.**

*Be it enacted, etc., as follows:*

**SECTION 1.** The exemptions from age discrimination in subsections 6 and 7 of section 4 of chapter 151B of the General Laws relative to residency in communities consisting

---

## Chap. 61

of structures constructed expressly for use as housing for persons 55 years of age or older shall apply to the former Ashford school property in the city known as the town of Methuen, notwithstanding that the parcel does not contain 5 acres of land.

**SECTION 2.** This act shall take effect upon its passage.

Approved April 1, 2004.

## Chapter 62. AN ACT ESTABLISHING A TRAFFIC COMMISSION IN THE CITY OF WESTFIELD.

*Be it enacted, etc., as follows:*

**SECTION 1.** There shall be in the city of Westfield a traffic commission to consist of 5 commissioners as follows: the chief of police or his designee who shall serve at the pleasure of the chief, the superintendent of public works, the city engineer and 2 representatives from the city, 1 from the residential community and 1 from the business community. The mayor shall appoint and the city council shall ratify the appointments of the members from the residential and business communities.

**SECTION 2.** The chief of police or his designee shall act as the chairperson of the commission for the first year. Thereafter, the chairperson shall be chosen by election of the members of the commission on or before the third Wednesday of March of each year. The commissioners shall receive no compensation for their services but all expenses incurred for the purposes of this act shall be paid by the city. All statutes and ordinances applicable generally to the departments of the city not inconsistent with this act shall apply to the commission.

**SECTION 3.** When the traffic commission is first constituted, the term of the representative of the business community shall be from the date of appointment to the third Wednesday of the month of March following completion of 1 full year of service and 3 years thereafter; the term of the representative of the residential community shall be from the date of appointment to the third Wednesday of the month of March following completion of 2 full years of service and 3 years thereafter. The members shall serve until a successor is duly qualified and appointed. An appointment to fill a vacancy in such a position shall be for the unexpired term of the member who is being replaced. The police chief or his designee, the city engineer and the superintendent of public works shall serve while in office. The commission shall meet quarterly on the third Wednesday of March, June, September and December with special meetings called by the chairperson when deemed necessary.

**SECTION 4.** The traffic commission shall have such authority as provided in this act, to adopt, amend, alter and repeal rules and regulations, not inconsistent with the General Laws and this act, relative to vehicular street traffic and parking in the city and to the move-

ment, stopping or standing of vehicles on, and their exclusion from, any street, way, highway, road or parkway under the control of the city, including rules and regulations designating any way or part thereof under the control of the city as a throughway under and subject to section 9 of chapter 89 of the General Laws and may prescribe penalties not exceeding \$200 for the violation of any rule or regulation adopted under this act. No such rule or regulation, except such special rules and emergency regulations as are declared and adopted pursuant to section 6, shall take effect until published once in each of 2 successive weeks in 1 or more newspapers of general circulation in the city. No rule or regulation approved by the traffic commission shall be effective until the traffic commission has first sent a report to the city council setting forth the rule or regulation or rules and regulations that that commission has voted to approve and the city council has voted thereon. In such vote, the city council may approve or reject each separate rule or regulation as presented without approving or rejecting the entire report but the city council shall not alter, amend or modify any rule or regulation as proposed in such report. Upon vote of the city council with approval of the mayor, such rules and regulations as approved shall have the force and effect of law and may be enforced. Nothing in this act shall be construed to authorize the commission to adopt any rule or regulation to modify or limit any power or authority of the state department of public works or the state department of public utilities or any power now vested in the mayor, city council or heads of departments with reference to the issuance of licenses or permits for the opening, using or occupying of streets and sidewalks.

**SECTION 5.** The commission shall have power to erect, make and maintain or cause to be erected, made and maintained, traffic and parking signs, signals, markings and other devices for the control of such traffic and parking in the city and for informing and warning the public as to rules and regulations adopted hereunder, subject, however to section 2 of chapter 89 of the General Laws.

**SECTION 6.** Notwithstanding sections 5 and 6, in the event of an urgent need required by considerations of public safety, the police chief may issue an emergency declaration adopting a temporary rule or regulation, not inconsistent with the General Laws, relative to vehicular street traffic and parking and the movement, stopping or standing of vehicles on any street, way, highway, road or parkway under the control of the city and may authorize installation of temporary traffic control signs or other temporary traffic control devices in conformity therewith. Upon issuance of such a declaration, a copy thereof shall be transmitted to the traffic commission for its consideration. Any such declaration shall expire as of the date of the regular traffic commission meeting next following the date of issuance of the declaration.

**SECTION 7.** All existing ordinances and regulations, relating to the control of vehicular traffic and parking shall remain in full force and effect until superseded by rules and regulations adopted by the traffic commission under this act and the adoption thereof by the commission shall not affect any act done or right accrued or penalty incurred or any suit.

Approved April 1, 2004.

---

**Chapter 63. AN ACT REGULATING THE USE OF LOWELL PARK IN THE TOWN OF BARNSTABLE.**

*Be it enacted, etc., as follows:*

**SECTION 1.** Notwithstanding any general or special law to the contrary, the town manager of the town of Barnstable may permit the Cotuit Athletic Association, Inc. to construct and maintain a building of not more than 40 feet in height or 800 square feet in gross floor area on Lowell Park in the town of Barnstable.

The Barnstable town manager may delegate, subject to his review, determinations of scheduling of the use of the park to the Cotuit Athletic Association, Inc., in order to accommodate the use of the park by the Cotuit Athletic Association and the Cotuit Kettleers of the Cape Cod Baseball League, Inc., as well as the general public.

**SECTION 2.** This act shall take effect upon its passage.

Approved April 1, 2004.

**Chapter 64. AN ACT RELATIVE TO THE DESIGNATION OF A SCENIC BYWAY IN THE TOWNS OF HADLEY AND SOUTH HADLEY.**

*Be it enacted, etc., as follows:*

Notwithstanding section 15C of chapter 40 of the General Laws, the portion of state highway Route 47 in the towns of Hadley and South Hadley is hereby designated as a scenic byway in the commonwealth and shall be included within the Connecticut River Scenic Farm Byway, established by section 92 of chapter 235 of the acts of 2000.

The overall purpose of the scenic byway designation is to recognize the unique scenic, cultural and recreational resources along the byway. Specific purposes include the preservation of the rural scenic character of the corridor, improvement of highway safety features, expansion of economic opportunities for farm related business and development of a balanced tourism program.

Approved April 1, 2004.

**Chapter 65. AN ACT MAKING APPROPRIATIONS FOR THE FISCAL YEAR 2004 TO PROVIDE FOR SUPPLEMENTING CERTAIN EXISTING APPROPRIATIONS AND FOR CERTAIN OTHER ACTIVITIES AND PROJECTS.**

*Whereas*, The deferred operation of this act would tend to defeat its purpose, which is forthwith to make appropriations for the fiscal year beginning June 1, 2003, and to make certain changes in law, each of which is immediately necessary or appropriate to effectuate

**Chap. 65**

these appropriations or for other important public purposes, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

*Be it enacted, etc., as follows:*

**SECTION 1.** To provide for supplementing certain items in the general appropriation act and other appropriation acts for fiscal year 2004, the sums set forth in section 2 are hereby appropriated from the General Fund unless specifically designated otherwise in this act or in those appropriation acts, for the several purposes and subject to the conditions specified in this act or in those appropriation acts, and subject to the laws regulating the disbursement of public funds for the fiscal year ending June 30, 2004. The sums shall be in addition to any amounts previously appropriated and made available for the purposes of these items.

**SECTION 2.**

**JUDICIARY.**

*Committee for Public Counsel Services.*

0321-1510 ..... \$16,000,000

**DISTRICT ATTORNEYS.**

*Berkshire District Attorney.*

0340-1100 ..... \$90,000

**OFFICE OF THE COMPTROLLER.**

*Office of the State Comptroller.*

1599-3384 ..... \$3,910,844

**EXECUTIVE OFFICE FOR ADMINISTRATION AND FINANCE.**

*Department of Revenue.*

1232-0100 ..... \$21,028,236

1232-0200 ..... \$500,000

**EXECUTIVE OFFICE OF ENVIRONMENTAL AFFAIRS.**

*Department of Conservation and Recreation.*

2820-2000 ..... \$1,000,000

2820-9005 ..... \$665,042

**EXECUTIVE OFFICE OF HEALTH AND HUMAN SERVICES.**

4590-0915 ..... \$1,362,000

**LABOR AND WORKFORCE DEVELOPMENT.**

*Department of Labor and Workforce Development.*

7003-0701 ..... \$10,888,000

**EXECUTIVE OFFICE OF PUBLIC SAFETY.**

*Department of Correction.*

8900-0010 ..... \$900,000

**SECTION 2A.** To provide for certain unanticipated obligations of the commonwealth, to provide for an alteration of purpose for current appropriations, and to meet certain requirements of law, the sums set forth in this section are hereby appropriated from the General Fund unless specifically designated otherwise in this section, for the several purposes and subject to the conditions specified in this section, and subject to the provisions of law regulating the disbursement of public funds for the fiscal year ending June 30, 2004. The sums shall be in addition to any amounts previously appropriated and made available for the purposes of these items.

**EXECUTIVE OFFICE FOR ADMINISTRATION AND FINANCE.**

*Division of Capital Asset Management and Maintenance.*

1102-3223 For the mitigation of the immediate public health risk at the Norfolk county house of correction due to an emissions design flaw identified by the division of capital asset management and maintenance; provided, that funds appropriated in this item may also be expended for repairs to heating and ventilation systems at facilities operated by the sheriff of Norfolk county ..... \$232,000

1599-3385 For a one-time matching grant to the Massachusetts High Technology Council for the purposes of maximizing private sector funding for the Massachusetts Defense Technology Initiative, provided, that the funds shall support the operations of the Massachusetts Defense Technology Initiative for the purposes of preventing the closure of Massachusetts military installations in the present Department of Defense Base Realignment and Closure process, and provided further, that the matching grant shall be matched dollar-for-dollar from private sources ..... \$500,000

**SECTION 2B.** To provide for supplementing certain intragovernmental chargeback authorizations in the general appropriation act and other appropriation acts for fiscal year 2004, to provide for certain unanticipated intragovernmental chargeback authorizations, to provide for an alteration of purpose for current intragovernmental chargeback authorizations, and to meet certain requirements of law, the sum set forth in this section is hereby authorized from the Intragovernmental Service Fund for the several purposes specified in this section or in those appropriation acts, and subject to laws regulating the disbursement of public funds for the fiscal year ending June 30, 2004. The sums shall be in addition to any amounts previously authorized and made available for the purposes of these items.

**OFFICE OF THE COMPTROLLER.**  
*Office of the State Comptroller.*

1599-3100 ..... \$7,000,000

**SECTION 3.** Section 94B of said chapter 32, as appearing in the 2002 Official Edition, is hereby amended by inserting after the word "department", in line 5, the following words:- , or a member of the state police assigned to the fire investigation unit of the department of fire services.

**SECTION 4.** Said section 94B of said chapter 32, as so appearing, is hereby further amended by inserting after the word "fire", in line 28, the following words:- or their investigation at the scene.

**SECTION 5.** Subsection (a) of section 6J of chapter 62 of the General Laws, as appearing in section 22 of chapter 141 of the acts of 2003, is hereby amended by striking out the definition of "Qualified rehabilitation expenditure" and inserting in place thereof the following definition:-

"Qualified rehabilitation expenditure", any amount properly chargeable to a capital account and described in section 47(c)(2)(A)(i) of the Code, as amended and in effect for the taxable year, incurred in connection with the certified rehabilitation of a qualified historic structure, but the term shall not include personal property, personal use property or the cost of acquiring any building or interest thereon.

**SECTION 6.** Said section 6J of said chapter 62, as so appearing, is hereby further amended by striking out subsection (b) and inserting in place thereof the following subsection:-

(b)(1) There shall be a Massachusetts historic rehabilitation tax credit.

(i) The commissioner, in consultation with the Massachusetts historical commission, shall authorize annually, for the 5 year period beginning January 1, 2005 and ending December 31, 2009, under this section together with section 38R of chapter 63, an amount not to exceed \$10,000,000 per year. The Massachusetts historical commission shall determine the criteria for eligibility for the credit, such criteria to be set forth in regulations promulgated under this section; but, at least 25 per cent of the tax credits shall be allowed to projects that contain affordable housing whenever possible and consistent with such criteria.

(ii) A taxpayer that incurs qualified rehabilitation expenditures may be allowed a credit, to be computed as hereinafter provided, against the tax imposed by this chapter. The credit shall be equal to a percentage, not to exceed 20 per cent, of the qualified rehabilitation expenditures made by the taxpayer with respect to a qualified historic structure which has received final certification and has been placed in service as provided for in this section. The Massachusetts historical commission shall administer and determine eligibility for the Massachusetts rehabilitation tax credit and allocate the credit in accordance with this section; but, the Massachusetts historical commission may impose a fee for the processing of applications for the certification of any rehabilitation under the provisions of this section.

(2) The credit allowable under this section shall be allowed for the taxable year in which the substantially rehabilitated property is placed in service, that is, when occupancy of the entire structure or some identifiable portion of the structure is permitted. A taxpayer allowed a credit under this section for a taxable year may carry over and apply to the tax imposed by this chapter in any of the succeeding 5 taxable years, the portion, as reduced from year to year, of those credits which exceed the tax for the taxable year.

(i) Historic rehabilitation tax credits allowed to a partnership, a limited liability company taxed as a partnership or multiple owners of property shall be passed through to the persons designated as partners, members or owners, respectively, pro rata or pursuant to an executed agreement among the persons designated as partners, members or owners documenting an alternative distribution method without regard to their sharing of other tax or economic attributes of the entity.

(ii) Taxpayers eligible for the Massachusetts historic rehabilitation tax credit may, with prior notice to and in accordance with regulations adopted by the commissioner, transfer the credits, in whole or in part, to any individual or entity, and the transferee shall be entitled to apply the credits against the tax with the same effect as if the transferee had incurred the qualified rehabilitation expenditures itself. The transferee shall use the credit in the year it is transferred. If the credit allowable for any taxable year exceeds the transferee's tax liability for that tax year, the transferee may carry forward and apply in any subsequent taxable year, the portion, as reduced from year to year, of those credits which exceed the tax for the taxable year; but, the carryover period shall not exceed 5 taxable years after the close of the taxable year during which the qualified historic structure received final certification and was placed in service as provided for in this section.

**SECTION 7.** Said section 6J of said chapter 62, as so appearing, is hereby further amended by striking out subsection (e).

**SECTION 8.** Said section 6J of said chapter 62, as so appearing, is hereby further amended by striking out subsection (g) and inserting in place thereof the following subsection:-

(g)(1) If, before the end of the 5 year period beginning on the date on which the qualified historic structure received final certification and was placed in service, the taxpayer disposes of the taxpayer's interest in the structure, the taxpayer's tax for the taxable year in which the disposition occurs shall be increased by the recapture amount. Any carry forward

credit shall be adjusted by reason of the disposition.

(2) For purposes of paragraph (1), the recapture amount shall equal the amount of the credit taken by the taxpayer, including any credit transferred by the taxpayer, minus the credit allowed for ownership, but not less than zero. The credit allowed for ownership shall be the product of the amount of credit allowed multiplied by a ratio, the numerator of which is the number of months the rehabilitated structure is owned by the taxpayer, and the denominator of which is 60.

**SECTION 9.** Said section 6J of said chapter 62, as so appearing, is hereby further amended by striking out subsection (i) and inserting in place thereof the following subsection:-

(i) The commissioner, in consultation with the Massachusetts historical commission, shall prescribe regulations necessary to carry out this section.

**SECTION 10.** Subsection (b) of section 67D of chapter 62C of the General Laws, as appearing in section 23 of chapter 141 of the acts of 2003, is hereby amended by striking out the second sentence and inserting in place thereof the following sentence:- The jobs incentive payment shall be equal to 50 per cent of the amount paid by the company as salary attributable to eligible jobs created by the company in such year to the extent that the salary was subject to Massachusetts withholding pursuant to chapter 62B for such year, multiplied by the applicable Massachusetts income tax rate for such salary.

**SECTION 11.** Chapter 63 of the General Laws is hereby amended by striking out section 38C, as appearing in section 27 of said chapter 141, and inserting in place thereof the following section:-

Section 38C. A corporation organized under or subject to chapter 156B and a limited liability company organized under chapter 156C which is not classified as a partnership and has elected to be taxed as a corporation separate from its members for federal income tax purposes which is engaged in manufacturing in the commonwealth, or in research and development in the commonwealth shall, for the purposes of this chapter, be deemed to be a domestic manufacturing corporation or a domestic research and development corporation. A domestic manufacturing corporation shall be taxed in the same manner and shall have the same duties under this chapter and chapter 62C as a domestic business corporation, except insofar as the determination of the excise under this chapter may be affected by reason of the exemption from local taxation of the machinery of a domestic manufacturing corporation.

A domestic research and development corporation for the purposes of this section is one whose principal activity in the commonwealth is research and development and which, during the taxable year, derives more than 2/3 of its receipts attributable to the commonwealth from the activity or incurs more than 2/3 of its expenditures attributable to the commonwealth, allocable to such activity; provided however, that a corporation that qualifies as a domestic research and development corporation only by reason of its expenditures shall not be entitled to the credit provided in section 31A by virtue of its qualification as a domestic research and development corporation. A corporation that is engaged in research

and development and that conducts manufacturing activities shall exclude expenditures related to manufacturing from total expenditures for the purpose of assessing whether 2/3 of expenditures are allocable to research and development, whether or not the manufacturing activities of the corporation are substantial. Receipts from research and development shall include receipts from the provision of research and development services and from royalties or fees derived from the licensing of patents, know-how or other technology developed from research and development. For purposes of this section, research and development shall include experimental or laboratory activity having as its ultimate goal the development of new products, the improvement of existing products, the development of new uses for existing products and the development or improvement of methods for producing products, and shall not include testing or inspection for quality control purposes, efficiency surveys, management studies, consumer surveys or other market research, advertising or promotional activities or research in connection with literacy, historical or similar projects.

**SECTION 12.** The first paragraph of said section 38C of said chapter 63, as amended by section 11 of this act, is hereby further amended by striking out the first sentence and inserting in place thereof the following sentence:- A corporation organized under or subject to chapter 156 D and a limited liability company organized under chapter 156C which is not classified as a partnership and has elected to be taxed as a corporation separate from its members for federal income tax purposes which is engaged in manufacturing in the commonwealth, or in research and development in the commonwealth shall, for the purposes of this chapter, be deemed to be a domestic business corporation or a domestic research and development corporation.

**SECTION 13.** Subsection (a) of section 38R of chapter 63 of the General Laws, as appearing in section 24 of chapter 141 of the acts of 2003, is hereby amended by striking out the definition of "Qualified rehabilitation expenditure" and inserting in place thereof the following definition:-

"Qualified rehabilitation expenditure", any amount properly chargeable to a capital account and described in section 47(c)(2)(A)(i) of the Code, as amended and in effect for the taxable year, incurred in connection with the certified rehabilitation of a qualified historic structure, but, the term shall not include personal property, personal use property or the cost of acquiring a building or interest thereon.

**SECTION 14.** Said subsection (a) of said section 38R of said chapter 63, as so appearing, is hereby further amended by striking out the definition of "Taxpayer" and inserting in place thereof the following definition:-

"Taxpayer", a corporation or other entity subject to an excise imposed by this chapter.

**SECTION 15.** Said section 38R of said chapter 63, as so appearing, is hereby amended by striking out subsection (b) and inserting in place thereof the following subsection:-

(b)(1) There shall be a Massachusetts historic rehabilitation tax credit.

(i) The commissioner, in consultation with the Massachusetts historical commission,

shall authorize annually, for the 5 year period beginning January 1, 2005 and ending December 31, 2009, under this section together with section 6J of chapter 62, an amount not to exceed \$10,000,000 per year. The Massachusetts historical commission shall determine the criteria for eligibility for the credit, the criteria to be set forth in regulations promulgated under this section; but, at least 25 per cent of the tax credits shall be allowed to projects that contain affordable housing whenever possible and consistent with the criteria.

(ii) A taxpayer that incurs qualified rehabilitation expenditures may be allowed a credit, to be computed as hereinafter provided, against the excise imposed by this chapter. The credit shall be equal to a percentage, not to exceed 20 per cent, of the qualified rehabilitation expenditures made by the taxpayer with respect to a qualified historic structure which has received final certification and has been placed in service as provided for in this section. The Massachusetts historical commission shall administer and determine eligibility for the Massachusetts historic rehabilitation tax credit and allocate the credit in accordance with this section; but, the Massachusetts historical commission may impose a fee for the processing of applications for the certification of any rehabilitation under this section.

(2) The credit allowable under this section shall be allowed for the taxable year in which the substantially rehabilitated property is placed in service, that is, when occupancy of the entire structure or some identifiable portion of the structure is permitted. A taxpayer allowed a credit under this section for a taxable year may carry over and apply to the excise imposed by this chapter in any of the succeeding 5 taxable years, the portion, as reduced from year to year, of those credits which exceed the excise for the taxable year.

(i) Credits allowed under this section which are provided to multiple owners of property shall be passed through to the persons designated as partners, members or owners, respectively, pro rata or pursuant to an executed agreement among the persons designated as partners, members or owners documenting an alternative distribution method without regard to their sharing of other tax or economic attributes of the entity.

(ii) Taxpayers eligible for the Massachusetts historic rehabilitation tax credit may, with prior notice to and in accordance with regulations adopted by the commissioner, transfer the credits, in whole or in part, to an individual or entity, and the transferee shall be entitled to apply the credits against the excise with the same effect as if the transferee had incurred the qualified rehabilitation expenditures itself. The transferee shall use the credit in the year it is transferred. If the credit allowable for any taxable year exceeds the transferee's excise liability for that tax year, the transferee may carry forward and apply in any subsequent taxable year, the portion, as reduced from year to year, of those credits which exceed such excise for the taxable year; but the carryover period shall not exceed 5 taxable years after the close of the taxable year during which the qualified historic structure received final certification and was placed in service as provided for in this section.

(iii) The credit allowed under this section shall not be subject to the limitations of section 32C; but, the credit allowed by this section shall not reduce the excise due under this chapter below the minimum excise provided by subsection (b) of section 32 and subsection (b) of section 39.

**SECTION 16.** Said section 38R of said chapter 63, as so appearing, is hereby amended by striking out subsection (e).

**SECTION 17.** Said section 38R of said chapter 63, as so appearing, is hereby further amended by striking out subsection (g) and inserting in place thereof the following subsection:-

(g)(1) If, before the end of the 5 year period beginning on the date on which the qualified historic structure received final certification and was placed in service, the taxpayer disposes of the taxpayer's interest in the structure, the taxpayer's tax for the taxable year in which the disposition occurs shall be increased by the recapture amount. A carry forward credit shall be adjusted by reason of the disposition.

(2) For purposes of paragraph (1), the recapture amount shall equal the amount of the credit taken by the taxpayer, including any credit transferred by the taxpayer, minus the credit allowed for ownership, but not less than zero. The credit allowed for ownership shall be the product of the amount of credit allowed multiplied by a ratio, the numerator of which is the number of months the rehabilitated structure is owned by the taxpayer, and the denominator of which is 60.

**SECTION 18.** Said section 38R of said chapter 63, as so appearing, is hereby amended by striking out subsection (i) and inserting in place thereof the following subsection:-

(i) The commissioner, in consultation with the Massachusetts historical commission, shall prescribe regulations necessary to carry out this section.

**SECTION 19.** The tenth paragraph of section 11 of chapter 69 of General Laws, as amended by section 73 of chapter 46 of the acts of 2003, is hereby further amended by striking out the third sentence and inserting in place thereof the following 2 sentences:- Each school improvement plan shall be submitted to the superintendent for review and approval not later than July 1, of the year in which the plan is to be implemented according to a plan development and review schedule established by the district superintendent. Upon request of the school committee, copies of the plans shall be made available to the committee for review in order to ensure consistency with the 3-year district improvement plan and the district annual action plan; provided, however, that the superintendent shall have the final approval authority of all school improvement plans.

**SECTION 20.** The third paragraph of section 12 of chapter 118E of the General Laws, as appearing in the 2002 Official Edition, is hereby amended by adding the following sentence:- Without limiting the generality of the foregoing, the division may withhold provider payments to ensure sufficient funds will be available to satisfy any amounts that may become due from a provider, upon notification to the provider of the amount subject to such withholding and the reasons therefor, or where otherwise required or permitted under federal law.

**SECTION 21.** Section 6 of chapter 136 of the General Laws is hereby amended by

striking out clause (52), as amended by section 31 of chapter 141 of the acts of 2003, and inserting in place thereof the following clause:-

(52) The retail sale of alcoholic beverages not to be drunk on the premises on Sundays by retail establishments licensed under section 15 of chapter 138; provided, however, that notwithstanding this chapter, a municipality may prohibit the retail sale of alcoholic beverages on Sundays by licensees under section 15 by vote of the city council or board of selectmen; provided further, that there shall be no such sales prior to the hour of 12:00 noon or on Christmas Day if Christmas occurs on a Sunday; and provided further, that establishments operating under this clause which employ more than 7 persons shall compensate all employees for work performed on a Sunday at a rate of not less than one and one-half of the employee's regular rate. No employee shall be required to work on a Sunday and refusal to work on a Sunday shall not be grounds for discrimination, dismissal, discharge, deduction of hours or any other penalty.

**SECTION 22.** Section 33 of chapter 138 of the General Laws, as most recently amended by section 32 of said chapter 141, is hereby further amended by striking out subsection (b).

**SECTION 23.** Clause (9A) of section 129B of chapter 140 of the General Laws, as appearing in section 34 of chapter 140 of the acts of 2003, is hereby amended by adding the following sentence:- Notwithstanding any general or special law to the contrary, licensing authorities shall deposit quarterly that portion of the firearm identification card application fee which is to be deposited into the General Fund, not later than January 1, April 1, July 1 and October 1 of each year.

**SECTION 24.** The first paragraph of clause (9B) of said section 129B of said chapter 140, as so appearing, is hereby amended by inserting after the second sentence the following sentence:- Notwithstanding any general or special law to the contrary, licensing authorities shall deposit quarterly that portion of the firearm identification card application fee which is to be deposited into the General Fund, not later than January 1, April 1, July 1 and October 1 of each year.

**SECTION 25.** Chapter 161A of the General Laws is hereby amended by striking out section 35, as appearing in the 2002 Official Edition, and inserting in place thereof the following section:-

Section 35. Notwithstanding any general or special law to the contrary, the authority's percentage share of premiums for group, general or blanket hospital, medical, dental or other health insurance, either by purchase of a policy or policies from one or more insurance companies, or nonprofit hospital, medical, dental or other service corporations, including health maintenance organizations, or by means of a self insurance plan or preferred provider arrangement plan, shall be determined by the authority or, where collective bargaining is authorized, through the process of collective bargaining. The percentage share of premiums for employees of the authority to whom a collective bargaining agreement is in force, shall be the percentage share which was paid during the month that such collective

bargaining agreement first went into effect and shall continue until such time as that agreement expires.

**SECTION 26.** Chapter 181 of the General Laws is hereby repealed.

**SECTION 26A.** Section 2A of chapter 262 of the General Laws, inserted by section 497 of chapter 26 of the acts of 2003, is hereby amended by adding the following paragraph:-  
The anniversary fee shall not be assessed against the commonwealth.

**SECTION 26B.** Section 4D of said chapter 262, inserted by section 502 of said chapter 26, is hereby amended by adding the following paragraph:-

The anniversary fee shall not be assessed against the commonwealth.

**SECTION 27.** The third paragraph of section 3 of chapter 279 of the General Laws, as appearing in the 2002 Official Edition, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:- Notwithstanding any restriction in the preceding paragraph, if a probation officer has probable cause to believe that a person placed under probation supervision or in the custody or care of a probation officer pursuant to sections 42A, 58A or 87 of chapter 276 or any other statute that allows the court to set conditions of release, has violated the conditions set by the court, the probation officer may arrest the probationer or may issue a warrant for the temporary custody of the probationer for a period not to exceed 72 hours or until the next sitting of the court, during which period the probation officer shall arrange for the appearance of the probationer before the court pursuant to the first paragraph of this section.

**SECTION 28.** Item 6033-9717 of section 2B of chapter 11 of the acts of 1997 is hereby amended by striking out, in line 236, the figure "\$480,000" and inserting in place thereof the following figure:- \$700,000.

**SECTION 29.** Chapter 164 of the acts of 1997 is hereby amended by striking out section 306 and inserting in place thereof the following section:-

Section 306. Notwithstanding any general or special law, rule, or regulation to the contrary, any person who is licensed pursuant to the provisions of the sixth paragraph of section 53 of chapter 146 of the General Laws or covered by section 7 of chapter 141 of the General Laws shall continue to be licensed or covered by said statutes as if such person was an employee of a previously regulated utility for so long as such person performs the same category of work, including work for any successor employer or employers, in the same location or locations, or at any location that is a generation, cogeneration, transmission or distribution facility, as defined in section 1 of chapter 164, except any plant used to produce electricity, steam or chilled water where the electricity produced is primarily for the benefit of hospitals and non-profit institutions. In the event a person who has been licensed as an employee of a utility pursuant to the provisions of said section 53 of said chapter 146 or covered by said section 7 of said chapter 141 seeks licensure under the non-utility sections of said statutes, such person shall have credited towards any experience requirements of said statutes or any rules or regulations made thereunder, all relevant service performed in the employment of the utility or successor employers. The board of regulations of the division

of registration and the department of public safety shall promulgate rules and regulations in order to ensure the continuation of exemption from licensure under this section is limited to those steps necessary to enable the existing utility industry workforce to work in their places and locations of employment as of the effective date of this act, or at the location of generating, transmission or distribution facilities comparable to those where said workforce members were previously employed, except any plant used to produce electricity, steam, and chilled water where the electricity produced is primarily for the benefit of hospitals and non-profit institutions. Said requirements relative to such continuation of exemption from licensure shall require, without limitation, said company or applicant to submit the names of individuals, jobs performed, nature of work, and work locations of individuals seeking continuation of said exemption.

**SECTION 30.** Section 2D of chapter 235 of the acts of 2000 is hereby amended by striking out the item number "6001-9605", inserted by section 23 of chapter 246 of the acts of 2002, and inserting in place thereof the following number:- 6001-9606.

**SECTION 31.** Item 1790-2010 of section 2 of chapter 142 of the acts of 2002, is hereby amended by adding the following words:- ; and provided, further, that any federal reimbursement received for expenditures paid from this item may be retained and expended for the purpose of this item in addition to the amounts appropriated herein.

**SECTION 32.** Item 1790-2011 of said section 2 of said chapter 142, is hereby amended by adding the following words:- ; and provided, further, that any federal reimbursement received for expenditures paid from this item may be retained and expended for the purpose of this item in addition to the amounts appropriated herein.

**SECTION 33.** Section 2 of chapter 236 of the acts of 2002 is hereby amended by striking out the item number "2000-2030" and inserting in place thereof the following number:- 2000-2035.

**SECTION 34.** Said section 2 of said chapter 236 is hereby further amended by striking out the item number "2100-0008" and inserting in place thereof the following number:- 2100-0018.

**SECTION 35.** Section 2 of chapter 244 of the acts of 2002 is hereby amended by striking out the item number "7004-9981" and inserting in place thereof the following number:- 7004-9982.

**SECTION 36.** Section 2 of chapter 245 of the acts of 2002 is hereby amended by striking out the item number "0526-2010" and inserting in place thereof the following number:- 0526-2011.

**SECTION 37.** Said section 2 of said chapter 245 is hereby further amended by striking out the item number "7004-9108" and inserting in place thereof the following number:- 7004-9118.

**SECTION 38.** Said section 2 of said chapter 245 is hereby further amended by striking out the item number "7100-0000", as amended by section 48 of chapter 300 of the acts of 2002, and inserting in place thereof the following number:- 7100-0001.

**SECTION 39.** Said section 2 of said chapter 245 is hereby further amended by striking out the item number "8100-0004" and inserting in place thereof the following number:- 8100-0024.

**SECTION 40.** Said section 2 of said chapter 245 is hereby further amended by striking out the item number "8910-0024" and inserting in place thereof the following number:- 8910-0023.

**SECTION 41.** Section 2 of chapter 246 of the acts of 2002 is hereby amended by striking out the item number "6006-9980", as amended by section 40 of chapter 438 of the acts of 2002, and inserting in place thereof the following number:- 6006-9981.

**SECTION 42.** Said section 2 of said chapter 246 is hereby further amended by striking out the item number "8100-9961" and inserting in place thereof the following number:- 8100-9962.

**SECTION 43.** Section 595 of chapter 26 of the acts of 2003 is hereby amended by striking out the words "July 1, 2004", inserted by section 101 of chapter 140 of the acts of 2003, and inserting in place thereof the following words:- April 30, 2004.

**SECTION 44.** Subsection (a) of section 129 of chapter 46 of the acts of 2003, as appearing in section 11 of chapter 55 of the acts of 2003, is hereby amended by inserting after the words "ferry trips" the following words:- based upon the actual number of fee-paying passengers embarking upon all departing ferry trips.

**SECTION 45.** Said subsection (a) of said section 129 of said chapter 46 of the acts of 2003, is hereby amended by inserting after the word "per", the second time it appears, the following words:- fare paying.

**SECTION 46.** The first sentence of subsection (c) of said section 129 of said chapter 46, as so appearing, is hereby amended by adding the following words:- not later than the twentieth day of the month following the last day of each calendar quarter, based upon the number of passengers subject to the embarkation fee departing from each port that has accepted this section.

**SECTION 47.** Said subsection (c) of said section 129 of said chapter 46, as so appearing, is hereby further amended by adding the following paragraph:-

For the purposes of this section, embarkation fees shall be collected at the time of sale and paid to the commonwealth based upon the total number of fee-paying passengers embarking upon all departing passenger ferry trips. If tickets purchased are not used by passengers to actually depart or embark upon a ferry trip, any unclaimed embarkation fees not redeemed by purchasers of unused tickets shall be retained by ferry operators to offset the costs incurred by ferry operators attributed to the implementation of this section.

**SECTION 48.** Chapter 127 of the acts of 2003 is hereby amended by striking out section 3.

**SECTION 49.** Chapter 136 of the acts of 2003 is hereby amended by adding the following section:-

---

## Chap. 65

Section 2. Section 31K of chapter 63 of the General Laws shall be in effect for tax years beginning on or after January 1, 2002. Nothing in said section 31K of said chapter 63 shall restrict any authority the commissioner had before November 26, 2003 to adjust taxpayer transactions for want of an adequate business purpose or on other grounds.

**SECTION 50.** Section 2A of chapter 140 of the acts of 2003 is hereby amended by striking out the item number "1599-4148" and inserting in place thereof the following number:- 1599-4154.

**SECTION 51.** Section 74 of chapter 140 of the acts of 2003 is hereby amended by striking out the number "0320-1518" and inserting in place thereof the following number:- 0321-1518.

**SECTION 52.** Notwithstanding any general or special law to the contrary, the committee for public counsel services may authorize transfers between items 0321-1510 and 0321-1520; but, any such transfer shall take place no later than June 30, 2004.

**SECTION 53.** There shall be a special commission to address the significant racial, ethnic and linguistic disparities in access to health care and prevention services and quality care, and the disparities in medical outcomes in the commonwealth. The disparities shall include, but not be limited to breast, cervical, prostate and colorectal cancers, stroke and heart attack, diabetes, infant mortality, HIV/AIDS, asthma and other respiratory illnesses. The special commission shall also address diversity in the health care workforce, including but not limited to, doctors, nurses and physician assistants.

The special commission shall consist of 1 member representing the secretary of health and human services, 1 member representing the commissioner of the department of public health, 1 member representing the commissioner of the department of medical assistance, 3 members of the house of representatives, 1 of whom shall be designated by the speaker of the house as co-chair of the commission, 3 members of the senate, 1 of whom shall be designated by the senate president as co-chair of the commission, 1 member representing the American Cancer Society Massachusetts Division, 1 member representing the American Heart Association New England Division, 1 member representing Massachusetts General Hospital, 1 member representing Brigham and Women's Hospital, 1 member representing the Massachusetts League of Community Health Centers, 1 member representing the Massachusetts Medical Society, 1 member representing Boston Public Health Commission, 1 member representing the Springfield Health Department, 1 member representing the Massachusetts Nurses Association, 1 member representing the Massachusetts Association of Health Plans, 1 member representing the Program to Eliminate Health Disparities at the Harvard School of Public Health, 1 member representing Boson Medical Center, 4 members from the communities disproportionately affected by health disparities to be appointed by the speaker of the house, and 4 members from communities disproportionately affected by health disparities to be appointed by the senate president.

The commission shall convene on or before April 30, 2004 and shall file a report no later than November 1, 2005 with the office of the governor, the clerk of the house of representatives, and the clerk of the senate. The report shall include, but not be limited to,

recommendations for designing, implementing and improving programs and services, and proposing appropriate statutory and regulatory changes to reduce disparities in access to health care services and quality care, and the disparities in medical outcomes in the commonwealth, and to address diversity in the health care workforce, including but not limited to, doctors, nurses and physician assistants.

**SECTION 54.** Sections 5 to 9, inclusive, and sections 13 to 18, inclusive, shall take effect on January 1, 2005 and shall apply to taxable years beginning on or after January 1, 2005; provided, however, that before the effective date of this act, the commissioner of revenue, in consultation with the chairman of the Massachusetts historical commission, may promulgate regulations necessary to implement this act.

**SECTION 55.** Sections 10 and 11 shall take effect as of November 26, 2003.

**SECTION 56.** Sections 12 and 26 shall take effect on July 1, 2004.

**SECTION 57.** Sections 26A and 26B shall take effect as of October 1, 2003.

*This bill was returned on April 5, 2004 by the Governor to the Senate the branch in which said bill was originated, with His objections in writing to the following items therein:*

**SECTION 25.**

*The remainder of the bill was approved by the Governor on April 5, 2004 at three o'clock and thirty-eight minutes, P.M.*

*The objections of the Governor notwithstanding and in the manner prescribed by the Constitution, on April 29, 2004 the Senate and on May 25, 2004 the House of Representatives passed the following Items:*

**SECTION 25.**

**Chapter 66. AN ACT RELATIVE TO THE COMMITMENT OF SEXUALLY DANGEROUS PERSONS.**

*Be it enacted, etc., as follows:*

**SECTION 1.** Section 1 of chapter 123A of the General Laws, as appearing in the 2002 Official Edition, is hereby amended by inserting after the word "services", in line 5, the following words:- , regardless of the reason for such incarceration, confinement or commitment,.

**SECTION 2.** Said section 1 of said chapter 123A, as so appearing, is hereby further amended by inserting after the definition of "Community access program" the following definition:-

"Conviction", a conviction of or adjudication as a delinquent juvenile or a youthful offender by reason of sexual offense, regardless of the date of offense or date of conviction or adjudication.

**SECTION 3.** Said section 1 of said chapter 123A, as so appearing, is hereby further amended by inserting after the figure "265", in line 47, the following words:- ; kidnapping under section 26 of said chapter 265 with intent to commit a violation of section 13B, 13F, 13H, 22, 22A, 23, 24 or 24B of said chapter 265; enticing away a person for prostitution or sexual intercourse under section 2 of chapter 272 .

**SECTION 4.** Said section 1 of said chapter 123A, as so appearing, is hereby further amended by inserting after the figure "272", in line 48, the following words:- ; inducing a person under 18 into prostitution under section 4A of said chapter 272; living off or sharing earnings of a minor prostitute under section 4B of said chapter 272; open and gross lewdness and lascivious behavior under section 16 of said chapter 272; incestuous intercourse under section 17 of said chapter 272 involving a person under the age of 21; dissemination or possession with the intent to disseminate to a minor matter harmful to a minor under section 28 of said chapter 272; posing or exhibiting a child in a state of nudity under section 29A of said chapter 272; dissemination of visual material of a child in a state of nudity or sexual conduct under section 29B of said chapter 272; purchase or possession of visual material of a child depicted in sexual conduct under section 29C of said chapter 272; dissemination of visual material of a child in the state of nudity or in sexual conduct under section 30D of chapter 272 .

**SECTION 5.** Said section 1 of said chapter 123A, as so appearing, is hereby further amended by inserting after the word "seventy-two", in line 50, the following words:- ; accosting or annoying persons of the opposite sex and lewd, wanton and lascivious speech or behavior under section 53 of said chapter 272.

**SECTION 6.** Said section 1 of said chapter 123A, as so appearing, is hereby further amended by inserting after the word "authority", in line 53, the following words:- any other offense, the facts of which, under the totality of the circumstances, manifest a sexual motivation or pattern of conduct or series of acts of sexually-motivated offenses.

**SECTION 7.** Section 12 of said chapter 123A, as so appearing, is hereby amended by inserting after the word "has", in line 1, the following word:- ever.

**SECTION 8.** Said section 12 of said chapter 123A, as so appearing, is hereby further amended by inserting after the words "section 1", in line 3, the following words:- , regardless of the reason for the current incarceration, confinement or commitment,.

**SECTION 9.** Said section 12 of said chapter 123A, as so appearing, is hereby further amended by inserting after the word "trial", in line 5, the following words:- , or who has been charged with any offense, is currently incompetent to stand trial and has previously been convicted of or adjudicated as a delinquent juvenile or a youthful offender by reason of a sexual offense,.

**SECTION 10.** (a) There shall be a special commission to study the effects of this act. The commission shall consist of 4 members of the senate, 1 of whom shall be the chairman of the joint committee on the judiciary, 1 of whom shall be the chairman of the joint committee on criminal justice, 1 of whom shall be the senate president or his designee,

---

## Chap. 66

and 1 of whom shall be the minority leader or his designee, and 4 members of the house of representatives, 1 of whom shall be the chairman of the joint committee on the judiciary, 1 of whom shall be the chairman of the joint committee on criminal justice, 1 of whom shall be the speaker of the house or his designee, and 1 of whom shall be the minority leader or his designee, the governor or his designee, the secretary of public safety or his designee, who shall be the chairman, the attorney general or his designee, 1 representative of Massachusetts Law Reform Institute, 1 representative of the American Civil Liberties Union, 1 representative of the committee for public counsel services and 1 representative of the Massachusetts District Attorneys Association, 1 representative of the Massachusetts Association of Criminal Defense Lawyers, 1 representative of the office of victim assistance, and 1 representative of the Massachusetts Bar Association.

(b) The commission shall investigate and study the impact and effectiveness of this act. The commission shall report to the general court the results of its investigation and study, by filing its report with the clerks of the senate and the house of representatives and the chairmen of the senate and house committees on ways and means no later than 3 years after the effective date of this act. Interim reports shall be filed 12 months and 24 months after the effective date of this act.

*Emergency Letter: April 7, 2004 @ 3:39 P.M.*

Approved April 7, 2004.

## Chapter 67. AN ACT ESTABLISHING A SICK LEAVE BANK FOR LESLIE A. DONAHUE, A JUSTICE OF THE TRIAL COURT.

*Whereas*, The deferred operation of this act would tend to defeat its purpose, which is forthwith to establish a sick leave bank for a certain justice of the trial court, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

*Be it enacted, etc., as follows:*

Notwithstanding any general or special law or rule or regulation to the contrary, the chief justice for administration and management of the trial court shall establish a sick leave bank for Leslie A. Donahue, an associate justice of the Norfolk county juvenile court. Any justice of the trial court may voluntarily contribute 1 or more of his sick, personal or vacation days or compensatory time to said sick leave bank for use by said Leslie A. Donahue for her illness or the illness of her spouse. Upon such time as said Leslie A. Donahue terminates employment with the trial court or requests to dissolve the sick leave bank, the balance of sick leave shall be transferred to the judicial sick leave bank, established pursuant to section 4 of chapter 211B of the General Laws.

Approved April 8, 2004.

---

**Chapter 68. AN ACT AUTHORIZING THE COMMISSIONER OF THE DIVISION OF CAPITAL ASSET MANAGEMENT AND MAINTENANCE TO CONVEY CERTAIN LAND TO THAYER ACADEMY IN THE TOWN OF BRAINTREE.**

*Whereas*, The deferred operation of this act would tend to defeat its purpose, which is to convey forthwith certain parcels of land, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

*Be it enacted, etc., as follows:*

**SECTION 1.** Notwithstanding sections 40E to 40J, inclusive, of chapter 7 of the General Laws, the commissioner of the division of capital asset management and maintenance, in this act called the commissioner, may convey to Thayer Academy a certain parcel of land described in section 2, together with all buildings and structures located thereon, for recreational purposes.

**SECTION 2.** The parcel to be conveyed by this act is shown as parcel 14 on the town of Braintree Assessor's Map 1050 and is identified in Area A in a plan prepared by Daylor Consulting Group, Inc., described as "Plan for Senate Bill 2067 Parcels/Easements to be Conveyed, Braintree, MA" and dated September 17, 2003. The conveyance shall be subject to a retained permanent easement for the benefit of the department of highways, in an area identified as Area B on said plan, for purposes associated with the maintenance, repair, reconstruction or replacement of the bridge structure adjacent thereto. The commissioner shall establish the exact boundaries of the parcel based upon a survey to be performed before the conveyance. The full and fair market value of the parcel, as burdened by the retained easement, for the uses authorized by this act shall be based upon an independent professional appraisal as determined by the commissioner.

**SECTION 3.** In consideration of this conveyance, Thayer Academy shall convey a permanent easement to the commonwealth, for the benefit of the department of highways, in an area identified as Area D on the plan referenced in section 2, for purposes of access necessary for the maintenance, repair, reconstruction or replacement of the bridge structure adjacent to Area B. The commissioner shall establish the exact boundaries of Area D based upon a survey to be performed before such conveyance. The full and fair market value of the easement to be conveyed under this section for the uses authorized by this act shall be based upon an independent professional appraisal as determined by the commissioner. The consideration to be paid by Thayer Academy shall equal the full and fair market value of the parcel to be conveyed under section 2, reduced by the full and fair market value of the easement to be conveyed under this section.

The inspector general shall review and approve both appraisals and prepare a report of his review of the methodology used for the appraisals. Said inspector general shall prepare a report of his review and file the report with the commissioner for submission to the house and senate committees on ways and means and the chairmen of the joint committee on state administration. The commissioner shall, 30 days before the execution of any agree-

---

**Chap. 68**

ment authorized by this act, or any subsequent amendment thereof, submit the agreement or amendment and a report thereon to said inspector general for his review and comment. The inspector general shall issue his review and comment within 15 days of receipt of any agreement or amendment. The commissioner shall submit the agreement and any subsequent amendments thereof, the reports, and the comments of said inspector general to the house and senate committees on ways and means and the chairmen of the joint committee on state administration at least 15 days before execution.

**SECTION 4.** Thayer Academy shall be responsible for the cost of any survey, appraisal and any other expenses relating to the conveyances authorized by this act and shall be responsible for its ownership including, without limitation, all costs, liabilities and expenses of any nature and kind, as may be determined by the commissioner.

**SECTION 5.** The deed, or other instrument, conveying the parcel described in section 2 to Thayer Academy shall, without limitation, provide that if the parcel ceases to be used for the purposes set forth in section 1, the parcel shall, after notification by the commissioner, revert to the commonwealth.

Approved April 8, 2004.

**Chapter 69. AN ACT PROVIDING FOR THE ANNUAL OBSERVANCE OF ARMENIAN-AMERICAN HERITAGE MONTH.**

*Be it enacted, etc., as follows:*

Chapter 6 of the General Laws is hereby amended by inserting after section 15VVVV the following section:-

Section 15WWWW. The governor shall issue a proclamation setting apart the month of April as Armenian-American Heritage Month, in recognition of the significant contributions Armenian-Americans have made to the commonwealth and to the United States. The governor may include such contributions as he sees fit, after consultation with Armenian-American groups, in such proclamation and shall recommend that said month be observed in an appropriate manner by the people.

Approved April 13, 2004.

**Chapter 70. AN ACT EXTENDING THE TIME FOR SUBMITTING NOMINATION PAPERS FOR CERTAIN STATE REPRESENTATIVE DISTRICTS IN THE YEAR 2004.**

*Whereas*, The deferred operation of this act would tend to defeat its purpose, which is to extend forthwith the time for nomination papers to be submitted in certain districts for the office of state representative in the general court for the year 2004, therefore it is hereby

---

## **Chap. 70**

declared to be an emergency law, necessary for the immediate preservation of the public convenience.

*Be it enacted, etc., as follows:*

Notwithstanding sections 7 and 46 of chapter 53 of the General Laws or any other general or special law to the contrary, in the year 2004, nomination papers for the office of representative in the general court in the First Suffolk, Second Suffolk, Third Suffolk, Fourth Suffolk, Fifth Suffolk, Sixth Suffolk, Seventh Suffolk, Eighth Suffolk, Ninth Suffolk, Tenth Suffolk, Eleventh Suffolk, Twelfth Suffolk, Thirteenth Suffolk, Fourteenth Suffolk, Fifteenth Suffolk, Seventeenth Suffolk and Eighteenth Suffolk districts and any other district affected by the remedial redistricting plan approved by the United States District Court in the case of *Black Political Task Force, et al v. William Francis Galvin, C.A. #20-11190-DPW*, shall be submitted to the registrars of voters where the signers appear to be voters on or before 5:00 of the fourteenth day preceding the date on which they shall be filed with the state secretary.

Approved April 15, 2004.

### **Chapter 71. AN ACT AUTHORIZING THE TOWN OF WINCHESTER TO GRANT 3 ADDITIONAL LICENSES FOR THE SALE OF ALL ALCOHOLIC BEVERAGES.**

*Be it enacted, etc., as follows:*

Notwithstanding section 17 of chapter 138 of the General Laws, or any other general or special law to the contrary, the licensing authority of the town of Winchester may grant an additional license for the sale of all alcoholic beverages not to be drunk on the premises and 2 additional licenses for the sale of wines and malt beverages not to be drunk on the premises under section 15 of said chapter 138. The licenses shall be subject to all of said chapter 138, except for section 17.

Approved April 16, 2004.

### **Chapter 72. AN ACT EXEMPTING THE POSITION OF DEPUTY POLICE CHIEF OF THE TOWN OF BRAINTREE FROM THE CIVIL SERVICE LAW.**

*Be it enacted, etc., as follows:*

**SECTION 1.** The position of deputy police chief in the town of Braintree shall be exempt from chapter 31 of the General Laws.

---

## Chap. 72

**SECTION 2.** Section 1 shall not impair the civil service status of any incumbent holding the position of deputy police chief in the town of Braintree on the effective date of this act.

**SECTION 3.** This act shall take effect upon its passage.

Approved April 16, 2004.

## **Chapter 73. AN ACT PROVIDING FOR A CHARTER FOR THE TOWN OF DUDLEY.**

*Be it enacted, etc., as follows:*

**SECTION 1.** The following shall be the charter of the town of Dudley:-

### **PART I. Incorporation and Authority**

#### **Section 1-1 Incorporation Continued**

The inhabitants of the Town of Dudley, Massachusetts, within the territorial limits as now or may hereafter be established by law, shall continue to be a body politic and corporate, known as the Town of Dudley.

#### **Section 1-2 Short Title**

This charter may be cited and shall be known as the Dudley Special Act Charter.

#### **Section 1-3 Division of Powers**

All legislative powers of the town shall be exercised by a town meeting open to all voters. The administration of all town fiscal, prudential and municipal affairs shall be vested in the executive branch headed by the Board of Selectmen.

#### **Section 1-4 Powers of the Town**

The intent and purpose of this charter is to secure for the citizens of the Town of Dudley, through the adoption of this charter, all the powers possible to secure for their government under Article LXXXIX of the Amendments to the Constitution of the Commonwealth and laws of the commonwealth, as fully and as though each such power were specifically and individually enumerated herein.

#### **Section 1-5 Interpretation of Powers**

The powers of the town under the charter shall be construed and interpreted liberally in favor of the town and the specific mention of any particular power is not intended to limit in any way the general powers of the town as stated in section 1-4.

#### **Section 1-6 Intergovernmental Relations**

The town may enter into agreements with any other unit of government to perform jointly or in cooperation, by contract or otherwise, any of its powers or functions.

### **PART II. Legislative Branch**

#### **Section 2-1 Open Town Meeting**

The legislative powers of the town shall be vested in a town meeting open to all voters.

---

## Chap. 73

### Section 2-2 Presiding Officer

All sessions of the town meeting shall be presided over by a Town Moderator, elected as provided in Part III. The Town Moderator shall regulate the proceedings, decide questions of order and make public declarations of all voters. The Town Moderator shall appoint such vote counters as deemed necessary to assist with the counting of votes. The Town Moderator shall have all of the powers and duties given to moderators by the constitution, the laws of the commonwealth, by charter, by by-law, by vote at town meeting, or otherwise.

### Section 2-3 Annual Town Meeting

The town meeting shall meet at least twice each calendar year. The first such meeting shall be held the third Monday in May and shall be deemed to be the Annual Town Meeting of the town and is expected to be primarily concerned with the determination of matters involving the expenditure and commitment of town funds, including but not limited to, the adoption of an annual operating budget for all town functions. The second such meeting, the powers of which shall be deemed to be those of the Annual Town Meeting, except that it shall not be construed to include the time for the election of town officers and other matters be determined by ballots, shall be held in September, October, or November or on a date fixed by by-law.

### Section 2-4 Special Town Meetings

Special town meetings shall be held at the call of the Board of Selectmen at such times as it may deem appropriate and whenever a special meeting is requested by the voters in accordance with procedures made available by section 10 of chapter 39 of the General Laws.

### Section 2-5 Clerk of the Meeting

The Town Clerk shall serve as the clerk to the town meeting. In the event of unavoidable absence, the Town Moderator shall appoint a clerk pro tempore. The Town Clerk shall give notice of all meetings to the public, keep a journal of its proceedings and perform such other functions as may be provided by the laws of the commonwealth, by charter, by by-law, by vote at town meeting, or otherwise.

### Section 2-6 Finance Appropriations and Advisory Committee

#### (a) Composition, Mode of Selection

There shall be a Finance Appropriations and Advisory Committee (FAA) composed of fifteen members appointed for terms of three years each. The FAA shall be appointed by the Town Moderator. No member of the FAA may be a town employee or hold an elective town office; but may be appointed to serve on a committee or board of the Town of Dudley as a representative of the FAA.

#### (b) Powers and Duties

The committee shall have such powers, duties and responsibilities as provided by the laws of the commonwealth, by by-law, by charter or otherwise.

## PART III. Elected Town Officers

### Section 3-1 Elected Town Officers, In General

(a) The election of Town Officers shall be held the first Monday of March.

**(b) Elective Offices**

The offices to be filled by the voters shall be a Board of Selectmen, a Town Moderator, a Town Clerk, the Dudley Housing Authority, and the Library Board of Trustees. As provided by law or agreement, voters shall also elect representative members of the Dudley-Charlton Regional School Committee and representative members of the Southern Worcester County Regional Vocational Technical High School (Baypath)

**(c) Eligibility**

Any registered voter from the Town of Dudley with the exception of town employees shall be eligible to hold any elective town office; no person shall simultaneously hold more than 1 elective town office.

**Section 3-2 Board of Selectmen**

**(a) Composition, Term of Office**

There shall be a Board of Selectmen composed of 5 members elected for terms of 3 years each, so arranged that the terms of as nearly an equal number of members as is possible shall expire each year. Employees of the Town of Dudley shall not be eligible to serve as a selectperson.

**(b) Powers and Duties**

The executive powers of the town shall be vested in the Board of Selectmen who shall serve as the chief policy-making board of the town. The Board of Selectmen shall carry out its duties by the issuance of policy guidelines and directives. It is the intention of this provision that the Board of Selectmen shall act only through the adoption of policy directives and guidelines, which are to be implemented by the Town Manager. The Board of Selectmen shall continue to have and to exercise all the powers and duties vested in Boards of Selectmen by the laws of the commonwealth, and such additional powers and duties authorized by charter, by by-law, by town meeting vote, or otherwise.

The Board of Selectmen shall cause the laws and orders for the government of the town to be enforced and shall cause a record of all its official acts to be kept. The Board of Selectmen shall prepare reports of town business and distribute such reports to the voters, the town meeting, or to other town agencies as deemed appropriate. To administer its policies and aid the board in its official duties, the Board of Selectmen shall hire a Town Manager as provided in Part V of this charter. The Town Manager shall be the primary officer responsible for the implementation of policy directives and guidelines adopted by the Board of Selectmen. The daily administration of the affairs of the town shall be the exclusive responsibility of the Town Manager.

**(c) Appointment Powers**

The Board of Selectmen shall appoint volunteer committees as provided in section 4-1 of this charter.

**(d) Investigative Powers**

The Board of Selectmen may investigate or may authorize the Town Manager to investigate the affairs of the town and the conduct of any town department or function.

**(e) Coordination and Cooperation Responsibility**

The Board of Selectmen shall be responsible for the coordination of town business affairs and policy considerations among town departments and with other municipal, regional, state, and federal governmental units.

The intention of this provision is to insure that town business affairs and policy considerations are coordinated and conducted in an effective manner and that the Board of Selectmen shall have the responsibility to foster such coordination and cooperation.

**(f) Licensing Power**

The Board of Selectmen shall be the licensing board of the town and shall have the power to issue licenses, to make all necessary rules and regulations regarding the issuance of such licenses, and to attach such conditions and restrictions as it deems to be in the public interest. The Board of Selectmen shall enforce the laws relating to all businesses for which it issues any licenses.

The Board of Selectmen may delegate to the Town Manager or 1 or more town officials or departments, the powers vested in the Board of Selectmen by the laws of the commonwealth to grant and issue licenses and permits, and may regulate the granting and issuing of licenses and permits by any such town agency and may at its discretion, rescind any such delegation without prejudice to any prior action which has been taken.

**Section 3-3 Town Moderator**

**(a) Term of Office**

A Town Moderator shall be nominated and elected by the voters for a term of 3 years.

**(b) Powers and Duties**

The Town Moderator shall annually appoint a deputy moderator who, in the event of absence of the Town Moderator, shall assume the powers and duties of the Town Moderator. The Town Moderator shall have the powers and duties provided to that office by the constitution and the laws of the commonwealth, by charter, by by-law, by vote at town meeting, or otherwise.

**(c) Appointment Powers**

The Moderator shall appoint a Deputy Moderator, the Finance Appropriations and Advisory Committee, the Fire and Police Evaluation Committee, the Zoning Board of Appeals, 1 member of the personnel Advisory Committee and other appointed Advisory Committee's (AAC) as deemed necessary by charter, by by-law, by vote at town meeting, or otherwise.

**Section 3-4 Town Clerk**

**(a) Term of Office**

There shall be a Town Clerk elected for a term of 3 years.

**(b) Powers and Duties**

The Town Clerk shall be the keeper of vital statistics for the town, the custodian of the town seal and all records of the town. The Town Clerk shall administer the oath of office to town officers, elected or appointed, supervise and manage the conduct of elections and matters relating thereto. Be clerk to the town meeting and keep its record. In the absence

---

## Chap. 73

of the Town Clerk, the Town Moderator will issue the oath of office. The Town Clerk shall have all the powers and duties given to Town Clerks by the laws of the commonwealth, by charter, by by-law, by vote at town meeting, or otherwise.

### (c) Appointment Powers

The Town Clerk shall appoint an Assistant Town Clerk by working in conjunction with the Personnel Advisory Committee. The Town Clerk shall also appoint election workers.

### Section 3-5 Library Board of Trustees

#### (a) Composition, Term of Office

There shall be a Library Board of Trustees composed of 3 members elected for terms of 3 years each so arranged that the term of 1 member expires each year.

#### (b) Powers and Duties

The Library Board of Trustees shall have control over the selection of library materials, and have custody and management of such. The Library Board of Trustees shall manage the town library in accordance with chapter 78 of the General Laws. All money and property that the town may receive for library purposes by gift or bequest shall be administered by the Library Board of Trustees in accordance with the provisions of the gift or bequest. The Library Board of Trustees shall continue to exercise all the powers and duties vested in the Library Board of Trustees by the laws of the commonwealth, by charter, by by-law, by vote at town meeting, or otherwise.

### (c) Appointment Powers

The Library Board of Trustees shall hire a Library Director by working in conjunction with the Personnel Advisory Committee. The Library Director will in turn hire library staff by working in conjunction with the Personnel Advisory Committee.

### Section 3-6 Dudley Housing Authority

#### (a) Composition, Elected

There shall be a Housing Authority composed of 5 members serving terms of 5 years each, so arranged that the terms of as nearly an equal number as is possible shall expire each year. Four members shall be elected and the fifth member shall be appointed as provided by state law.

#### (b) Powers and Duties

The Housing Authority shall have the powers and duties given to housing authorities under the laws of the commonwealth, by charter, by by-law, by vote at town meeting, or otherwise.

### Section 3-7 Recall of Elected Officials

#### (a) Application

Any holder of an elected office in the town, with more than 6 months remaining in the term of office for which the official was elected, may be recalled by the voters of the town in the manner provided in this section. No recall petition shall be filed against an official within 6 months after taking office.

---

## Chap. 73

### (b) Recall Petition

A recall petition may be initiated by the filing of an affidavit containing the name of the officer sought to be recalled and a statement of the grounds for recall, provided that, the affidavit is signed by at least 5 per cent of the total number of registered voters of the Town of Dudley at the last town election.

The Town Clerk shall deliver to the voters submitting the original affidavit, copies of petition blanks demanding such recall; the Town Clerk shall keep available copies of the petition blanks. The petition blanks shall be issued by the Town Clerk with signature and official seal attached. They shall be dated, addressed to the Board of Selectmen, and shall contain the names of all the persons to whom they are issued, the number of blanks so issued, the name of the person whose recall is sought, the office from which removal is sought, the grounds of recall as stated in the affidavit, and shall demand the election of a successor in the said office. A copy of the petition shall be entered in a record book to be kept in the office of the Town Clerk. Said recall petition shall be returned and filed with the Town Clerk within 30 days after the filing of the affidavit, and shall have been signed by at least 25 per cent of the registered voters of the town as of the date of the most recent town election.

The Town Clerk shall within twenty-four hours of receipt, submit the petition to the Registrars of Voters, and the registrars shall within 5 working days, certify that the number of signatures are names of registered voters of the town.

### (c) Recall Election

If the petition shall be certified by the Town Clerk to be sufficient, the Town Clerk shall submit the same with such certificate to the Board of Selectmen within 5 working days, and the Selectmen shall give written notice of the receipt of the certificate to the officer sought to be recalled and shall, if the officer does not resign within 5 days, order an election to be held on a date fixed by them not less than 60 and not more than 90 days after the date of the Town Clerk's certificate that a sufficient petition has been filed; provided, however, that if any other town election is to occur within 100 days after the date of the certificate, the Board of Selectmen shall postpone the holding of the recall election to the date of such other election. If a vacancy occurs in said office after recall election has been ordered, the election shall proceed as provided in this section.

### (d) Nomination of Candidates

The nomination of candidates for election, the publication of the warrant for the recall election, and the conduct of the same, shall all be in accordance with the provisions of law relating to elections, unless otherwise provided in this section.

### (e) Office Holder

The incumbent shall continue to perform the duties of the office until the recall election. If said incumbent is not recalled, the incumbent shall continue in office for the remainder of the un-expired term subject to recall as before. If recalled, the officer shall be deemed removed upon the qualification of the successor, who shall hold office during the un-expired term. If the successor fails to qualify within 5 days after receiving notification

Chap. 73

of election, the incumbent shall thereupon be deemed removed and the office vacant.

(f) Ballot Proposition

Ballots used in a recall election shall submit the following proposition: Are you for the recall of (name of officer)?

Yes \_\_\_\_ No \_\_\_\_

Under the proposition shall appear the word "Candidates", the directions to the voters required by section 42 of chapter 54 of the General Laws, and beneath this the names of candidates nominated in accordance with the provisions of law relating to elections. If a majority of the votes cast upon the question of recall is in the affirmative, the candidate receiving the highest number of votes shall be declared elected.

(g) Repeat of Recall

In the case of an officer subjected to a recall election and not recalled thereby, no recall petition shall be filed against such officer until at least 6 months after the election at which the officer's recall was submitted to the voters of the town.

(h) Office Holder Recalled

No person who has been recalled from an office or who has resigned from office while recall proceedings were pending against such person, shall be appointed or elected to any town office within 1 year after such recall or such resignation.

Part IV. Appointed Town Officers

Section 4-1 Appointed Town Officers, In General

(a) Eligibility

Registered voters of Dudley shall be eligible to hold any appointive position.

(b) Appointment by the Board of Selectmen

Letters of interest are to be directed to the Town Manager who will screen, qualify and forward recommendations to the Board of Selectmen for appointment. The officers and multiple-member bodies to be appointed by the Board of Selectmen shall be:

Board of Selectmen

Board of Registrars	Constables	Council on Aging	Cultural Council
Historical Commission	Veteran's Agent	Youth Commission	Cable Access Coordinator

Board of Registrars

Cable Access Coordinator

Constables

Council on Aging

Cultural Council

Historial Advisory Committee

Veteran's Agent

Youth Commission

The Board of Selectmen shall appoint other such officials, committees and boards as may be needed.

(c) Appointment by the Town Manager

---

## Chap. 73

Letters of interest are to be directed to the Town Manager who will screen, qualify and appoint. The officers and multiple-member bodies to be appointed by the Town Manager shall be:

Town Manager					
Assessor	Board of	Cable	Capital	Cemetery	Central
Advisory	Health	Advisory	Improvement	Advisory	Planning
Committee		Committee	Committee	Committee	Committee
Civil Defense	Conservation	Disability		Hazardous	Insurance
Coordinator	Advisory	Advisory	Fence Viewer	Waste	Advisory
	Committee	Committee		Coordinator	Committee
Parks and Rec.	Personnel	Planning	Water	Sewer	
Advisory	Advisory	Board	Advisory	Committee	
Committee	Committee		Committee		

Board of Assessors

Board of Health\*

Cable Advisory Committee

Capital Improvement Committee

Cemetery Advisory Committee (Cemetery Commission)\*

Central Massachusetts Regional Planning Commission

Civil Defense Coordinator

Conservation Commission

Disability Advisory Committee (Disability Commission)

Fence Viewer

Hazardous Waste Coordinator

Insurance Advisory Committee

Parks and Recreation Advisory Committee (Parks and Recreation)

Personnel Advisory Committee (2 of the 5 members)

Planning Board\*

Sewer Advisory Committee (Sewer Commission)\*

Water Advisory Committee (Water Commission)\*

\*Represents a change from elected to appointed

The Town Manager shall appoint other such officials, committees and boards as may be needed.

Town Manager appointments are subject to 4/5th veto by the Board of Selectmen.

(d) Appointment by the Town Moderator

Letters of interest are to be directed to the Town Moderator for consideration and appointment. The officers and multiple-member bodies to be appointed by the Town Moderator shall be:

	Moderator	Deputy Moderator	
Zoning Board of Appeals	Fire and Police Evaluation Committee	Finance Advisory and Appropriations Committee	Personnel Advisory Committee (One Member)

- Deputy Town Moderator
- Finance Appropriations and Advisory Committee
- Personnel Advisory Committee (One of Five Members)
- Fire and Police Evaluation Committee
- Zoning Board of Appeals

(e) The officers and multiple-member bodies to be appointed by the Finance Appropriations and Advisory Committee shall be:

- Personnel Advisory Committee (Two of Five Members)
- Section 4-2 Water Advisory Committee

(a) Composition, Appointed by the Town Manager  
There shall be a Water Advisory Committee composed of 3 members appointed for terms of 3 years each, so arranged that the term of 1 member expires each year.

(b) Powers and Duties

The Water Advisory Committee shall advise the Town Manager and the Director of the DPW on matters pertaining to the water systems of the town.

Section 4-3 Sewer Advisory Committee

(a) Composition, Appointed by the Town Manager  
There shall be a Sewer Advisory Committee composed of 3 members appointed for terms of 3 years each, so arranged that the term of 1 member expires each year.

(b) Powers and Duties

The Sewer Advisory Committee shall advise the Town Manager and the Director of the DPW on matters pertaining to the sewer systems of the town.

Section 4-4 Planning Board

(a) Composition, Appointed by the Town Manager  
There shall be a Planning Board composed of 5 members appointed for terms of 3 years each so arranged that the term of as nearly an equal number as is possible shall expire each year.

(b) Power and Duties

The Planning Board shall make careful studies of the resources, possibilities and needs of the town and shall make plans for the development of the town. The Planning Board shall follow and implement the Town Master Plan, setting forth policies to govern the future growth and development of the entire town. The board shall regulate the subdivision of land within the town by adoption of rules and regulations. The Planning Board shall make recommendations to the town meeting on all matters affecting land use and development, including the zoning by-laws of the town.

---

## Chap. 73

The Planning Board's annual report, shall give information regarding the condition of the town and any plans or proposals for its development and estimates of their impact. The Planning Board shall have all of the other powers and duties planning boards are given by the laws of the commonwealth, by charter, by by-law, by vote at town meeting, or otherwise.

### Section 4-5 Board of Assessors

#### (a) Composition, Appointed by the Town Manager

There shall be an Assessor Advisory Committee composed of 3 members appointed for terms of 3 years each so arranged that the term of 1 member shall expire each year.

#### (b) Powers and Duties

The Assessor Advisory Committee shall advise the Town Manager on all matters pertaining to property assessment.

### Section 4-6 Cemetery Advisory Committee

#### (a) Composition, Appointed by the Town Manager

There shall be a Cemetery Advisory Committee composed of 3 members appointed for terms of 3 years each so arranged that the term of 1 member shall expire each year.

#### (b) Powers and Duties

The Cemetery Advisory Committee shall advise the Town Manager and the Director of the DPW on all matters pertaining to the town cemeteries.

### Section 4-7 Board of Health

#### (a) Composition, Appointed by the Town Manager

There shall be a Board of Health composed of 3 members appointed for terms of 3 years each so arranged that the term of 1 member shall expire each year.

#### (b) Powers and Duties

The Board of Health shall have such powers, duties and responsibilities as provided by the laws of the commonwealth.

### Section 4-8 Parks and Recreation Advisory Committee

#### (a) Composition, Appointed by the Town Manager

There shall be a Parks and Recreation Advisory Committee composed of 5 members serving terms of 3 years each, so arranged that the term of as nearly an equal number as is possible shall expire each year.

#### (b) Powers and Duties

The Parks and Recreation Advisory Committee shall be responsible for and shall plan, conduct and promote programs of recreation, play, sport and physical education for all age groups in the Town of Dudley.

### Section 4-9 Constables

#### (a) Term of Office, Appointed by the Board of Selectmen

There shall be 5 Constables appointed for terms of 3 years each, so arranged that the terms of as nearly an equal number as is possible shall expire each year.

#### (b) Powers and Duties

---

## Chap. 73

The Constables may serve such civil writs and processes as are authorized by law. The Constables shall serve warrants and other legal processes.

### Section 4-10 Fire and Police Evaluation Committee

#### (a) Term of Office, Appointed by the Town Moderator

There shall be a Fire and Police Evaluation Committee composed of 5 members serving terms of 5 years each, so arranged that the terms of as nearly an equal number as is possible shall expire each year.

#### (b) Powers and Duties

The role of the Police Evaluation Committee will be expanded to include the Fire Department. The Fire and Police Evaluation Committee shall be governed by the Fire and Police Rules and Regulations.

### Part V. Town Manager

#### Section 5-1 Appointment, Qualifications

The Board of Selectmen shall hire, by a four-fifths vote, a Town Manager from a list of qualified candidates prepared by the Personnel Advisory Committee. The Board of Selectmen shall hire the Town Manager to serve at the pleasure of the board and who shall be the chief executive officer of the town. The Town Manager shall be selected on the basis of demonstrated executive and administrative ability. The Town Manager shall be a person deemed to be qualified by education, training and previous experience to perform the duties of the office.

The Town Manager is responsible to the residents of Dudley and is charged with providing for the efficient, effective and economical operation of all governmental agencies and personnel under the control and supervision of the Town Manager.

The Town Manager shall attend and shall be a non-voting active participant in meetings of the Board of Selectmen.

The Town Manager need not be a resident of the town or of the commonwealth. The Town Manager shall not have served as a member of the Dudley Board of Selectmen for at least 12 months prior to appointment. The town may establish by by-law, charter revision, or vote at town meeting such additional qualifications as seem necessary and proper.

The Town Manager shall devote full time to the office and shall not hold any other public office, elective or appointive, nor be actively engaged in any other business or occupation during such service, unless such action is approved in advance and in writing by the Board of Selectmen.

The Board of Selectmen shall provide for an annual review of the job performance, unless otherwise specified by the employment contract, of the Town Manager which shall, at least in summary form, be a public record.

#### Section 5-2 Powers and Duties

The powers and duties of the Town Manager shall include, but are not to be limited to, the following:

(a) To supervise, direct and be responsible for the efficient administration of all functions and activities for which the office of town manager is given authority, responsibility

or control by this charter, by by-law, by vote at town meeting, by vote of the Board of Selectmen, or otherwise. In furtherance of these duties, the Town Manager may inquire, at any time, into the conduct or performance of duties of any officer or employee, board, or town department.

(b) To appoint, hire, or remove, subject to applicable statutory provisions or collective bargaining agreements, all department heads, officers, members of boards and committees and employees for whom no other method of selection or removal is provided by this charter or by by-law. Copies of the notices of all such appointments shall be posted on the town bulletin board.

(c) Serve as Personnel Administrator, be responsible for the day-to-day administration of the personnel system, and administer and enforce collective bargaining contracts, the personnel by-law, and rules and regulations adopted by the Board of Selectmen.

(d) Work with the Personnel Advisory Committee to fix, subject to appropriations, the compensation of all officers and employees appointed by the Town Manager unless such compensation is otherwise fixed.

(e) To have full jurisdiction over the rental and use of all town facilities and property except property under the control of the Dudley-Charlton Regional School Committee, the Board of Library Trustees or the Conservation Commission.

The Town Manager shall be responsible for the maintenance and repair of all town buildings and facilities placed under the Town Manager's control by this charter, by by-law, by vote at town meeting, by vote of the Board of Selectmen, or otherwise.

(f) To negotiate all contracts involving any subject within the jurisdiction of the office of town manager, including contracts with town employees, involving wages, hours and other terms and conditions of employment.

(g) To be responsible for purchasing all supplies, material and equipment for all departments and activities of the town, but not including supplies for the regional school district, or library books or other uniquely library related supplies, unless otherwise specifically requested by the Dudley-Charlton Regional School Committee or by the Board of Library Trustees, as appropriate.

The Town Manager shall examine, or cause to be examined, the quantity, quality and condition of all supplies, material and equipment delivered to or received by any town department, except schools and libraries.

The Town Manager shall be responsible for the disposal of all supplies, material and equipment, which have been declared surplus by any town department.

(h) To expand, reorganize, consolidate or abolish town departments, boards or committees serving under the supervision of the Town Manager, in whole or in part. Make recommendations to the Board of Selectmen for new town departments, boards, and committees, which may include reassignments of powers, duties, and responsibilities. The Board of Selectmen may recommend the changes to town meeting for implementation by adoption or revision of the town's bylaws or of this charter, as may be applicable.

(i) To coordinate the activities of all town agencies serving under the office of town manager and the office of board of selectmen with those under the control of other officers and multiple member bodies elected directly by the voters.

(j) To inquire, at any time, into the conduct or performance of duties of any officer or employee, department, board or committee.

(k) To coordinate the efforts of, or provide direction to elected boards and officials to ensure cohesion within town functions as it relates to the Master Plan, the town operating budget, capital improvements, and long or short term goals and objectives for the town.

(l) To perform any other duties as required to be performed by the Town Manager by charter, by by-law, by vote at town meeting, by vote of the Board of Selectmen, or otherwise.

In addition, the Town Manager shall appoint or hire, based upon merit and qualifications alone, all officers, subordinates, employees, professional services and all appointed multiple member bodies for whom no other method of selection is provided in this charter.

#### **Section 5-3 Appointment Powers**

The Town Manager shall hire all town employees, professional services or officials, other than those elected, receiving compensation for time or services by the Town of Dudley.

#### **Section 5-4 Delegation of Authority**

The Town Manager may authorize any subordinate officer or employee to exercise any power or perform any function or duty which is assigned to the office of town manager, provided, however, that all acts performed under any such delegation shall at all times be deemed to be the acts of the Town Manager.

#### **Section 5-5 Acting Town Manager**

(a) Temporary Absence - By letter filed with the Town Clerk, the Town Manager with the approval of the Board of Selectmen shall designate a qualified municipal manager during a temporary absence.

(b) Vacancy - Any vacancy in the office of town manager shall be filled as soon as possible by the Board of Selectmen in the manner provided in Part V, Section 5-1, but, pending such regular appointment the Board of Selectmen shall appoint a qualified municipal administrative officer or employee to perform the duties of the office on an acting basis until a qualified town manager is hired. Such temporary appointment may not exceed 3 months but one renewal may be voted by the Board of Selectmen not to exceed a second 3 months. Compensation for such person shall be set by the Board of Selectmen following recommendations by the Personnel Advisory Committee.

#### **Section 5-6 Removal and Suspension**

The Board of Selectmen, by the affirmative votes of 4 or more members, may terminate and remove, or suspend, the Town Manager from office in accordance with the following procedure:

(a) The Board of Selectmen shall adopt a preliminary resolution of removal by the affirmative vote of at least 4 of its members, which must state the reason or reasons for removal. This preliminary resolution may suspend the Town Manager for a period not to ex-

ceed 45 days. The Board of Selectmen may, at its option, suspend the Town Manager with or without full pay and benefits as part of the preliminary resolution. A copy of the resolution shall be delivered to the Town Manager immediately.

(b) Within 5 days after receipt of the preliminary resolution the Town Manager may request a hearing by filing a written request for such hearing with the Board of Selectmen. This hearing shall be held at a meeting of the Board of Selectmen not later than 30 days after the request is filed nor earlier than 20 days. The Town Manager may file a written statement responding to the reasons stated in the resolution of removal with the Board of Selectmen provided the same is received at its office more than 48 hours in advance of the hearing.

(c) The Board of Selectmen may adopt a final resolution of removal, which may be made effective immediately, by the affirmative votes of 4 of its members not less than 10 nor more than 21 days following the date of delivery of a copy of the preliminary resolution to the Town Manager, if the Town Manager has not requested a hearing; or, within 10 days following the close of the hearing if the Town Manager has requested one. Failure to adopt a final resolution of removal within the time periods as provided in this section shall nullify the preliminary resolution of removal and the Town Manager shall, at the expiration of said time, resume the duties of the office.

(d) The action of the Board of Selectmen in suspending or removing the Town Manager shall be final, it being the intention of this provision to vest all authority and fix all responsibility for such suspension or removal solely in the Board of Selectmen.

Part VI. Administrative Organization

Section 6-1 Employees, Professional Services, In General

(a) Eligibility

Employees and those providing Professional Services to the town need not be residents of the town or commonwealth.

(b) Process

The employees and officials listed in this section will be hired by the Town Manager subject to 4/5th veto by the Board of Selectmen. The Town Manager will work in conjunction with the Personnel Advisory Committee to fill town employee positions.

(c) The following officials/professional services presently appointed by the Board of Selectmen will be hired by the Town Manager:

Town Manager

Auditor	Building Inspector Assistant	Electrical Inspector	Electrical Inspector Assistant	Fuel/Oil Inspector	
Gas Inspector	Plumbing Inspector Assistant	Gas Inspector Assistant	Scale of Weights and Measures	Plumbing Inspector	Town Counsel

Chap. 73

Auditor  
Building Inspector Assistant  
Electrical Inspector  
Electrical Inspector Assistant  
Fuel/Oil Inspector  
Gas Inspector  
Gas Inspector Assistant  
Plumbing Inspector  
Plumbing Inspector Assistant  
Sealer of Weights and Measures  
Town Counsel

(d) The following officials and town employees shall be appointed by the Town

Manager:

Town Manager

Accountant	Board of Health Agent	Building Clerk	Building Inspector
Clerk to the	Fire Chief	MIS Coordinator	Police Chief
Board of Selectmen			

Accountant  
Board of Health Agent  
Building Clerk  
Building Inspector  
Clerk to the Board of Selectmen  
Fire Chief  
MIS Coordinator  
Police Chief

(e) The following officials and town employees shall be appointed by the Town

Manager:

Town Manager

Conservation Clerk	Assessor	Cemetery Clerk	
	FAA Clerk	Personnel Clerk	Town Planner

Assessor  
Cemetery Clerk  
Conservation Clerk  
FAA Clerk  
Personnel Clerk  
Town Planner

(f) The Town Manager shall appoint the Collector and Treasurer.

Collector  
Treasurer  
Section 6-2 Department of Public Works5

There shall be established a Department of Public Works (DPW) under the direction of the Town Manager. The principal objectives of creating a Department of Public Works (DPW) are to (a) improve the quality of the services the Town provides to its citizens; (b) to eliminate the conflicts between departments and ensure coordination for efficiency; and (c) to reduce the operating costs of town government.

The Town Manager shall hire a Director of Public Works who shall be a person especially suited by education, training and previous experience to perform the duties of the office. The director shall be responsible for the supervision and coordination of all public works operations of the town that are placed under control of the director by this charter, by by-law, by vote at town meeting, or otherwise. The department shall assume all of the powers and duties now vested in or exercised by the Cemetery Commission by the Board of Selectmen acting as the Highway Commission, Highway Department, the Sewer Commission, the Water Commission, the Recycle Center, the Animal Control facility, the Tree Warden, the facility maintenance function of the Parks and Recreation committee and all other related functions. In addition, the DPW shall be responsible for engineering services and such other functions assigned by the Town Manager to the department.

The director shall coordinate activities with the Water, Sewer and Cemetery Advisory Committees to insure effective utilization of town resources. Those reporting to the director are:

Director of Department of Public Works

Dog Officer	Cemetery Clerk	Parks & Recreation Occasional Employees	Recycling Agent	Tree Warden
Highway Superintendent		Sewer Superintendent	Water Superintendent	
Highway Department Clerk	Highway Foreman	Sewer Department Clerk	Assistant Plant Operator	Water Department Clerk
				Assistant Plan Operator

- Dog Officer
- Cemetery Clerk
- Highway Superintendent
- Parks and Recreation Occasional Employees
- Recycling Agent
- Sewer Superintendent
- Tree Warden
- Water Superintendent

The day-to-day management and control over all personnel and assets of the Cemeteries, Parks, Water Department, Sewer Department, Recycle Center, Highway Department, and the Animal Control Facility shall be transferred to DPW as soon as the DPW is established pursuant to section 9-5 (d). These assets include, but are not limited to,

---

## Chap. 73

the following:

- Physical plant and equipment
- Tools and spare parts
- Mechanical equipment (including pumps, compressors, etc.)
- Transportation vehicles
- Grounds keeping equipment
- Office equipment and supplies; office furniture
- Balances of appropriations and projection of income and expenses
- Contracts in force

The day-to-day management and control over all personnel and assets of the departments outlined above shall be transferred to the Department of Public Works within the first year after charter adoption. The Water, Sewer and Cemetery Commissions shall become appointed advisory bodies and the management of all elements of the sewer, water and cemetery systems shall be transferred to the department of public works within 1 year after the charter adoption.

The day-to-day management and control over all personnel and assets as outlined above of the Solid Waste Transfer Station; and supervision of contracts for municipal refuse disposal, and recycling shall be transferred to the Department of Public Works within 1 year after the charter adoption.

The Director of the DPW shall direct said transfer of personnel and assets and shall establish a schedule for this transition. The Town Manager will meet with the Director of DPW to review all descriptions/statements of responsibility to draft amendments as appropriate for review and approval by the Board of Selectmen. Insofar as any changes in job description or requirements may affect bargaining unit personnel, the Personnel Advisory Committee shall bargain with the appropriate union representatives(s) relative to impact, if any, on work conditions.

No person in the full time service or employment of the town shall forfeit pay grade or time in service. Each such person shall be retained in a capacity as similar to the person's former capacity as is practical. The incumbents in the office of the Sewer, Water and Cemetery Commission shall continue to serve until such time as these departments are transferred into the DPW at which time the Commissioners shall become Appointed Advisory Committee members. They shall have the power to provide advice to the Town Manager and Director of DPW. No contracts or liabilities in force on the date when the DPW becomes fully effective shall be affected.

### Section 6-3 Director of Public Works Powers and Duties

#### (a) Definition

Administrative and supervisory work in the planning, directing and managing the operations of a consolidated Department of Public Works; all other related work as required.

#### (b) Distinguishing Characteristics

Works under the administrative direction of the Town Manager.

---

## Chap. 73

Performs highly responsible duties requiring the exercise of considerable independent judgment in the planning, direction, and control of the operation and maintenance of public works, infrastructure, and the development of capital projects for the improvement of infrastructure.

Makes frequent contacts requiring perceptiveness and discretion with other town officials, town boards, state and federal agencies, contractors, engineers, and with the general public to avoid errors in administrative decisions.

Has access to extensive department-related confidential information such as personnel records and bid proposals.

Some physical effort is required to perform supervisory duties with exposure to hazards associated with construction sites and bad weather.

### (c) Examples of Work

Working through subordinates, the Director of the DPW supervises, plans, directs, prepares budgets, and manages the activities of the Sewer, Water, Highway, Cemetery, Parks and Recreation, Recycling, Animal Control departments, and public buildings and grounds. Confers with department heads concerning ongoing and future projects; manages department personnel, labor relations, training, staffing, and evaluation of employees. Manages departmental finances and budgets; maintains department records and correspondence.

Administers all engineering, design and construction projects for the DPW; provides engineering services and other technical assistance to all other town departments engaged in the capital projects as required; works closely with the Planning Board, Board of Health, and the Conservation Advisory Committee concerning development matters, subdivisions, and review of plans submitted.

### Section 6-4 Fire Department

The Town Manager shall hire the Fire Chief who shall act under authority of sections 42 and 44 of chapter 48 of the General Laws, relating to the operation of a Fire Department.

### Section 6-5 Police Department

The Town Manager shall hire the Police Chief who shall act under authority of section 97A of chapter 41 of the General Laws relating to the operation of a Police Department.

### Section 6-6 Personnel Advisory Committee

#### (a) Composition, Term of Office

There shall be a Personnel Advisory Committee (PAC) composed of 5 members appointed as follows: One member by the Town Moderator, 2 members by the Town Manager, and 2 members by the FAA. The 5 members shall be appointed for a term of 3 years each so arranged that the term of as nearly an equal number of members as is possible shall expire each year. No person shall serve on the Personnel Advisory Committee who is at the same time, an employee or an elected or appointed official of the town. One member of the FAA may be appointed to serve on the PAC.

#### (b) Purpose

---

## Chap. 73

The Personnel Advisory Committee's mission is to establish equitable personnel and employee relation practices for the people who work for the Town of Dudley.

### (c) Scope

The provisions of this charter section shall apply to all employees, committees and departments of the Town, including employees covered by collective bargaining agreements.

### (d) Powers and Duties

- . The PAC shall be responsible for the establishment of personnel policies and procedures, including, but not limited to: employment, job classification, hours of work and overtime, benefits, leaves, promotions, reductions in force, performance evaluation, transfers, corrective action and or employment related practices and policies.

- . The PAC shall be responsible for the development of new budgeted positions to be presented for approval at town meeting prior to implementation.

- . The PAC shall classify all jobs and positions, and execute a wage and salary administration system.

- . The PAC shall propose wage and salary rates each year.

- . The PAC shall administer a final, binding problem-solving system, by which the Town employees may present and resolve grievances.

- . The PAC shall participate in the negotiation of labor agreements between the Town and recognized unions.

- . The PAC shall research and propose a method to evaluate the performance of town employees and appointed officials.

- . The PAC shall recommend compensation for all presently compensated town positions, elected and appointed, not otherwise covered by the Town's wage and salary system.

The PAC shall research and prepare proposed rules and regulations, or amendments on their own initiative, or as requested by town departments, the Board of Selectmen, the Town Manager, or employees. The PAC shall then notify any affected official or employee in writing, post notices in prominent locations and schedule a public meeting with at least 10 days notice. The PAC will consider all relevant information for the meeting, then vote on the proposals. A majority vote (when a quorum of the PAC is present) shall be considered sufficient for adoption.

No rule or regulation promulgated by the PAC shall be adopted until prior notification is made to all affected officials or employees.

Any provision of the PAC under section 6-6 may be rescinded by a majority vote of town meeting.

### (e) Severability

The provisions of the charter and any rules and regulations adopted under its authority are severable. If any section of the charter provision or regulation is declared invalid, the remaining provisions and regulations shall be unaffected.

### (f) PAC Regulations

---

## Chap. 73

On the third and every subsequent third year following charter adoption, a committee of 3 qualified town residents appointed by the Town Manager, shall be formed to review the provisions outlined in section 6-6 to determine if they continue to meet the needs of the Town of Dudley.

### Part VII. Financial Provisions

#### Section 7-1 Budget Process

Within a time fixed by the Board of Selectmen prior to the Annual Town Meeting, the Town Manager under the policy direction of the Board of Selectmen shall prepare and submit a proposed budget and capital improvement program for the ensuing fiscal year with an accompanying budget message and supporting documents to the Board of Selectmen. It shall outline the proposed fiscal policies of the town for the ensuing fiscal year; describe important features of the proposed budget and indicate any major variations from the current budget, fiscal policies, expenditures and revenues together with reasons for such change.

The Board of Selectmen shall review the proposed town budget and budget message and consider alterations as deemed necessary or appropriate. The Town Manager shall submit the proposed town budget to the Finance Appropriations and Advisory Committee (FAA). The Town budget submitted to the FAA shall reflect the policies of the Board of Selectmen and shall be the proposed operational budget for the Town of Dudley to be presented for adoption at town meeting.

#### Section 7-2 Finance Appropriations and Advisory Committee Action

The FAA shall, upon receipt of the budget and capital improvement program, consider in public meetings the detailed expenditures for each town department proposed by the Town Manager. The FAA may confer with representatives from any town department in connection with its deliberations. The FAA may request the Town Manager or any town officer to provide additional information. The FAA shall forward to the Town Manager for publication, a report of the proposed budget and article recommendations. The budget to be acted upon by the town meetings shall be the budget proposed by the Town Manager as recommended by the FAA. The FAA shall make the initial motion in the form of their recommendation for the budget line item.

#### Section 7-3 Capital Improvements Program

There shall be a Capital Improvement Committee consisting of three members appointed by the Town Manager for a term of three years each so arranged that the term of one member expires each year. Working in conjunction with the Capital Improvement Committee, the Town Manager shall submit a five-year capital improvement program, updated annually, to the Board of Selectmen at the date fixed by the Board of Selectmen for the submission of the proposed operating budget.

#### Section 7-4 Approval of Warrants

Warrants for payments of town funds prepared by the Town Accountant shall be submitted to the Town Manager for approval. The approval of any such warrant by the Town Manager shall be sufficient authority to authorize payment by the town.

**Section 7-5 Annual Audit**

The Board of Selectmen shall provide for an annual audit of the books and accounts of the town to be made by a certified public accountant or firm of accountants.

**Part VIII. General Provisions**

**Section 8-1 Charter Revision or Amendment**

The charter may be replaced, revised or amended in accordance with any procedure made available by Article LXXXIX of the Amendments to the Constitution and any laws of the commonwealth enacted to implement said constitutional amendment.

**Section 8-2 Charter Review**

At last once in every 10 years following charter adoption, the Town Moderator shall appoint a Charter Review Committee whose 5 members shall consist of 1 representative of the FAA, 1 representative of the Board of Selectmen and 3 residents at large. This committee shall be established for the purpose of reviewing this charter and to make a report, with recommendations to the town meeting concerning any proposed amendments, which said committee might determine to be necessary or desirable.

**Section 8-3 Severability**

The provisions of this charter are severable. If any of the provisions of this charter are held to be unconstitutional or invalid, the remaining provisions of this charter shall not be affected. If the application of this charter or any of its provisions, to any person or circumstances is held to be invalid, the application of said charter and its provisions to other persons or circumstances shall not be affected.

**Section 8-4 Rules of Interpretation**

The following rules shall apply when interpreting the charter:

**(a) Specific Provisions to Prevail**

To the extent that any specific provision of the charter shall conflict with any provision expressed in general terms, the specific provision shall prevail.

**(b) Number and Gender**

Words imparting the singular number may extend and be applied to several persons or things; words imparting the plural number may include the singular; words imparting the masculine gender shall include the feminine gender.

**(c) References to General Laws**

All references to the General Laws or the laws of the commonwealth contained in the charter refer to the general laws of the Commonwealth of Massachusetts and are intended to include any amendments or revisions to such chapters and sections or to the corresponding chapters and sections of any rearrangement of the General Laws enacted subsequent to the adoption of the charter.

**(d) Computation of Time**

In computing time under the charter, if 7 days or less, only business days, not including Saturdays, Sundays, or legal holidays, shall be counted; if more than 7 days, every day shall be counted.

**Section 8-5 Definitions**

---

## Chap. 73

Unless another meaning is clearly apparent from the manner in which the word is used, the following words as used in the charter shall have the following meanings:

(a) Charter

The word "charter" shall mean this charter and any amendments to it made through any methods provided under Article LXXXIX of the Amendments to the Constitution of the Commonwealth.

(b) Town

The word "town" shall mean the Town of Dudley.

(c) Voters

The word "voters" shall mean registered voters of the Town of Dudley.

(d) Majority Vote

The words "majority vote" shall mean a majority of those present and voting, provided a quorum, as defined by by-law, is present when a vote is taken, unless a higher number is required by law, this charter, or by its own rules.

(e) Days

The word "days" shall refer to business days, not including Saturdays, Sundays and legal holidays when the time is set for less than 7 days; when the time set is 7 days or more, every day shall be counted.

(f) Appoint

The word "appoint" shall refer to the filling of volunteer committee positions for which there are no benefits or formal employment with the Town of Dudley.

(g) Hire

The word "hire" shall refer to the formal employment of a town employee.

(h) Multiple member body

The words "multiple member body" shall mean any board, or committee consisting of 2 or more persons, whether elected or appointed.

(i) Professional Service

The words "professional service" shall mean an outside agency, firm or individual hired to provide a particular service to the Town of Dudley.

(j) Employee

The word "employee" shall mean an individual hired to fill a town position that receives compensation.

### Section 8-6 Multiple Member Bodies

(a) Removal

Any member of an appointed multiple member body may be removed by the appointing authority if said member fails to attend 3 regularly scheduled meetings of such multiple member body over a period of 3 consecutive months without express leave from the appointing authority.

(b) Appointments

Appointments to multiple member bodies shall only be made by appointing authorities established under Part Four or under other provisions expressly provided for by

this charter.

#### **Part IX. Transitional Provisions**

##### **Section 9-1 Continuation of Existing Laws**

All by-laws, resolutions, rules, regulations, and votes of town meeting which are in force at the time this charter is adopted, that are not superceded by this charter, shall continue in full force until amended or repealed. Where provisions of this charter conflict with provisions of town by-laws, rules, regulations, orders and special acts and acceptances of General Law, the charter provisions shall govern.

##### **Section 9-2 Existing Officials and Employees**

Any person holding a town office or employment under the town shall retain such office or employment and shall continue to perform the duties of the office until provisions have been made in accordance with this charter for the performance of the said duties. No person in the permanent full-time service or employment of the town shall forfeit pay grade or time in service. Each such person shall be retained in a capacity as similar to the person's former capacity as is practical.

##### **Section 9-3 Continuation of Government**

All town officers, boards, commissions or committees shall continue to perform their duties until re-appointed, re-elected, until successors to their respective positions are fully appointed or elected or until their duties have been transferred and assumed in accordance with the provisions of this charter.

##### **Section 9-4 Transfer of Records and Property**

All records, property and equipment whatsoever of any office, board, commission, committee or part thereof, the powers and duties of which are assigned in whole or in part to another town office, board, or committee, shall be transferred to such office, board, committee or department in accordance with the provisions of this charter.

##### **Section 9-5 Time of Taking Effect**

This charter shall become fully effective upon ratification by the voters, except as otherwise provided in this section:

(a) Until such time as the Town Manager is hired, the Board of Selectmen shall exercise all the powers, duties and responsibilities necessary to insure the orderly operation of town government.

(b) Upon charter adoption by election, the Personnel Advisory Committee (PAC) shall begin screening for the position of Town Manager. The PAC shall undertake a wide search, shall review applications received and shall conduct such interviews as deemed desirable or necessary. The PAC shall submit to the Board of Selectmen, such number of candidates that the committee deems best suited to perform the duties of the Town Manager.

(c) The Town Administrator shall continue to serve until such time as a Town Manager is hired and assumes the role.

(d) Thirty-days after the appointment of a Director of the Department of Public Works by the Town Manager, the Department of Public Works (DPW) shall be established except as otherwise provided in this charter.

(e) The incumbent in the office of Tree Warden shall continue to serve for the balance of the term for which the Tree Warden was elected. Upon the expiration of the term of office of the Tree Warden, or if a vacancy shall occur, the office shall be appointed by the Director of the DPW.

(f) The Water Commission shall continue to exercise its powers and duties until the Water Department is transferred into the Department of Public Works within the first year following the adoption of this charter. At such time the responsibilities of the Water Commission shall be transferred to the department of public works and the Water Commission shall become an advisory committee to the DPW and the Town Manager.

(g) The Sewer Commission shall continue to exercise its powers and duties until the Sewer Department is transferred into the Department of Public Works within the first year following the adoption of this charter. At such time the responsibilities of the Sewer Commission shall be transferred to the department of public works and the Water Commission shall become an advisory committee to the department of public works and the Town Manager.

(h) Upon the adoption of this charter, the Board of Selectmen shall appoint a committee of 5 members 3 of which shall come from the Transition Committee to review town by-laws and report back to the town meeting with recommendations to bring by-laws in conformity with the provisions of this charter.

(i) Unless otherwise provided by this charter, the composition and term of office of any town board, committee or department shall continue as it has been until such time as a different form of organization is provided in accordance with the procedures made available in Part III and IV of this charter.

**SECTION 2.** This act shall be submitted for acceptance to the qualified voters of the town of Dudley at a special election to be held within 45 days after the effective date of this act in the form of the following question which shall be placed on the official ballot:

"Shall an act passed by the general court in the year 2004 entitled 'An Act providing for a charter for the town of Dudley' be accepted?"

If a majority of the votes cast in answer to this question is in the affirmative, this act shall take full effect, but not otherwise.

**SECTION 3.** Section 2 shall take effect upon its passage.

Approved April 21, 2004.

## **Chapter 74. AN ACT RELATIVE TO REPRESENTATIVE DISTRICTS IN THE GENERAL COURT.**

*Whereas*, The deferred operation of this act would tend to defeat its purpose, which is to provide forthwith for certain changes to the 160 representative districts, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

*Be it enacted, etc., as follows:*

**SECTION 1.** Section 4 of chapter 57 of the General Laws, as appearing in the 2002 Official Edition, is hereby further amended by striking out lines 358 to 360, inclusive, and inserting in place thereof the following:-

*Seventh Norfolk.* - Consisting of precincts 2, 4, 5, 6, 7, 8, 9 and 10, of the town of Milton, and precincts 1, 2, 4, 7 and 8 of the town of Randolph, both in the county of Norfolk.

**SECTION 2.** Said section 4 of said chapter 57 is hereby further amended by striking out lines 429 to 518, inclusive, and inserting in place thereof the following:-

*First Suffolk.* - Consisting of precincts 1 (VTD 0005), 2 (VTD 0010), 3 (VTD 0015), 4 (VTD 0020), 5 (VTD 0025), 6 (VTD 0030), 7 (VTD 0035), 8 (VTD 0040), 9 (VTD 0045), 10 (VTD 0050), 11 (VTD 0055), 12 (VTD 0060), 13 (VTD 0065), and 14 (VTD 0070) of ward 1, of the city of Boston, in the county of Suffolk.

*Second Suffolk.* - Consisting of all precincts (VTD 0075, 0080, 0085, 0090, 0095, 0100, 0105) of ward 2, of the city of Boston, and all precincts of wards 1 and 2, precincts 1 and 3 of ward 3, and precincts 1 and 4 of ward 4, of the city of Chelsea, both in the county of Suffolk.

*Third Suffolk.* - Consisting of precincts 1 (VTD 0110), 2 (VTD 0115), 3 (VTD 0120), 4 (VTD 0125), 6 (VTD 0135), 7 (VTD 0140) and 8 (VTD 0145) of ward 3, precinct 1 (VTD 0150) of ward 4, precinct 1 (VTD 0200) of ward 5, and precincts 1 (VTD 0345), 2 (VTD 0350) and 3 (VTD 0355) of ward 8, of the city of Boston, in the county of Suffolk.

*Fourth Suffolk.* - Consisting of precinct 15 of ward 1 (VTD 1430 - the harbor islands), all precincts (VTD 0250, 0255, 0260, 0265, 0270, 0275, 0280, 0285, 0290) of ward 6, precincts 1 (VTD 0295), 2 (VTD 0300), 3 (VTD 0305), 4 (VTD 0310), 5 (VTD 0315), 6 (VTD 0320), 7 (VTD 0325), 8 (VTD 0330) and 9 (VTD 0335) of ward 7, precinct 6 (VTD 0370) of ward 8, and precinct 3 (VTD 0555) of ward 13, of the city of Boston, in the county of Suffolk.

*Fifth Suffolk.* - Consisting of precinct 10 (VTD 0340) of ward 7, precincts 5 (VTD 0365) and 7 (VTD 0375) of ward 8, precinct 6 (VTD 0525) of ward 12, precincts 1 (VTD 0545), 2 (VTD 0550), 4 (VTD 0560), 5 (VTD 0565) and 6 (VTD 0570) of ward 13, precincts 1 (VTD 0665), 2 (VTD 0670), 3 (VTD 0675), 4 (VTD 0680), 5 (VTD 0685), 7 (VTD 0695), 8 (VTD 0700) and 9 (VTD 0705) of ward 15, precinct 1 (VTD 0710) of ward 16, and precinct 2 (VTD 0775) of ward 17, of the city of Boston, in the county of Suffolk.

*Sixth Suffolk.* - Consisting of precincts 5 (VTD 0615), 8 (VTD 0630), 9 (VTD 0635), 10 (VTD 0640), 11 (VTD 0645), 12 (VTD 0650), 13 (VTD 0655) and 14 (VTD 0660) of ward 14, precincts 7 (VTD 0800), 8 (VTD 0805), 10 (VTD 0815) and 11 (VTD 0820) of ward 17, precincts 7 (VTD 0870), 8 (VTD 0875) and 15 (VTD 0910) of ward 18, and precincts 11 (VTD 1005), 12 (VTD 1010) and 13 (VTD 1015) of ward 19, of the city of Boston, in the county of Suffolk.

*Seventh Suffolk.* - Consisting of precincts 8 (VTD 0185), 9 (VTD 0190) and 10 (VTD 0195) of ward 4, precinct 4 (VTD 0360) of ward 8, precincts 4 (VTD 0395) and 5 (VTD 0400) of ward 9, precinct 4 (VTD 0420) of ward 10, precinct 1 (VTD 0450) of ward

---

## Chap. 74

11, precincts 1 (VTD 0500), 2 (VTD 0505), 3 (VTD 0510), 4 (VTD 0515), 5 (VTD 0520), 8 (VTD 0535) and 9 (VTD 0540) of ward 12, and precinct 1 (VTD 1120) of ward 21, of the city of Boston, in the county of Suffolk.

*Eighth Suffolk.* - Consisting of precinct 3 of ward 2, precinct 3 of ward 3, and all precincts of ward 5, of the city of Cambridge, in the county of Middlesex; and precinct 5 (VTD 0130) of ward 3, and precincts 3 (VTD 0210), 4 (VTD 0215), 5 (VTD 0220), 6 (VTD 0225), 7 (VTD 0230), 8 (VTD 0235), 9 (VTD 0240) and 11 (VTD 0250) of ward 5, of the city of Boston, in the county of Suffolk.

*Ninth Suffolk.* - Consisting of precinct 2 of ward 2, of the city of Cambridge, in the county of Middlesex; and precincts 2 (VTD 0155), 3 (VTD 0160), 4 (VTD 0165), 5 (VTD 0170), 6 (VTD 0175) and 7 (VTD 0180) of ward 4, precincts 2 (VTD 0205) and 10 (VTD 0245) of ward 5, and precincts 1 (VTD 0380), 2 (VTD 0385) and 3 (VTD 0390) of ward 9, of the city of Boston, in the county of Suffolk.

*Tenth Suffolk.* - Consisting of precincts 14, 15 and 16, of the town of Brookline, in the county of Norfolk; and precincts 3 (VTD 1030), 5 (VTD 1040), 6 (VTD 1045), 7 (VTD 1050), 10 (VTD 1065), 11 (VTD 1070), 12 (VTD 1075), 13 (VTD 1080), 14 (VTD 1085), 15 (VTD 1090), 16 (VTD 1095), 17 (VTD 1100), 18 (VTD 1105), 19 (VTD 1110) and 20 (VTD 1115) of ward 20, of the city of Boston, in the county of Suffolk.

*Eleventh Suffolk.* - Consisting of precincts 2 (VTD 0455), 3 (VTD 0460), 4 (VTD 0465), 5 (VTD 0470), 7 (VTD 0480), 8 (VTD 0485), 9 (VTD 0490) and 10 (VTD 0495) of ward 11, precinct 7 (VTD 0530) of ward 12, precincts 1 (VTD 0595), 2 (VTD 0600), 3 (VTD 0605), 4 (VTD 0610), 6 (VTD 0620), and 7 (VTD 0625) of ward 14, and precincts 6 (VTD 0980) and 7 (VTD 0985) of ward 19, of the city of Boston, in the county of Suffolk.

*Twelfth Suffolk.* - Consisting of precincts 1 and 3 of the town of Milton, in the county of Norfolk; and precincts 8 (VTD 0745), 11 (VTD 0760) and 12 (VTD 0765) of ward 16, precincts 4 (VTD 0785), 12 (VTD 0825), 13 (VTD 0830) and 14 (VTD 0835) of ward 17, and precincts 1 (VTD 0840), 2 (VTD 0845), 3 (VTD 0850), 4 (VTD 0855), 5 (VTD 0860), 6 (VTD 0865) and 21 (VTD 0940) of ward 18, of the city of Boston, in the county of Suffolk.

*Thirteenth Suffolk.* - Consisting of precincts 7 (VTD 0575), 8 (VTD 0580), 9 (VTD 0585) and 10 (VTD 0590) of ward 13, precinct 6 (VTD 0690) of ward 15, precincts 2 (VTD 0715), 3 (VTD 0720), 4 (VTD 0725), 5 (VTD 0730), 6 (VTD 0735), 7 (VTD 0740), 9 (VTD 0750) and 10 (VTD 0755) of ward 16, and precincts 1 (VTD 0770), 3 (VTD 0780), 5 (VTD 0790), 6 (VTD 0795) and 9 (VTD 0810), of ward 17, of the city of Boston, in the county of Suffolk.

*Fourteenth Suffolk.* - Consisting of precinct 11, of the town of Milton, in the county of Norfolk; and of precincts 9 (VTD 0880), 10 (VTD 0885), 11 (VTD 0890), 12 (VTD 0895), 13 (VTD 0900), 14 (VTD 0905), 16 (VTD 0915), 17 (VTD 0920), 18 (VTD 0925), 19 (VTD 0930), 20 (VTD 0935), 22 (VTD 0945) and 23 (VTD 0950) of ward 18, precinct 10 (VTD 1000) of ward 19, and precincts 8 (VTD 1055) and 9 (VTD 1060) of ward 20, of the city of Boston, in the county of Suffolk.

---

## Chap. 74

*Fifteenth Suffolk.* - Consisting of precinct 5 of the town of Brookline, in the county of Norfolk; and precincts 1 (VTD 0405), 2 (VTD 0410), 3 (VTD 0415), 5 (VTD 0425), 6 (VTD 0430), 7 (VTD 0435), 8 (VTD 0440) and 9 (VTD 0445) of ward 10, precinct 6 (VTD 0475) of ward 11, precincts 1 (VTD 0955), 2 (VTD 0960), 3 (VTD 0965), 4 (VTD 0970), 5 (VTD 0975), 8 (VTD 0990) and 9 (VTD 0995) of ward 19, and precincts 1 (VTD 1020), 2 (VTD 1025) and 4 (VTD 1035) of ward 20, of the city of Boston, in the county of Suffolk.

Approved April 21, 2004.

## Chapter 75. AN ACT EXTENDING THE SERVICE OF THE INCUMBENT ADJUTANT GENERAL.

*Whereas*, The deferred operation of this act would tend to defeat its purpose, which is to extend by 1-year the service of the current Adjutant General to assure continuity of leadership of our National Guard while our troops return home from their service to our country, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

*Be it enacted, etc., as follows:*

Notwithstanding paragraph (a) of section 15 and section 31 of chapter 33 of the General Laws or any other general or special law to the contrary, George W. Keefe may continue to serve as Adjutant General until April 24, 2005, unless otherwise removed at the pleasure of the governor before that date.

Approved April 23, 2004.

## Chapter 76. AN ACT AUTHORIZING THE CITY OF LOWELL TO PAY A CERTAIN UNPAID BILL.

*Be it enacted, etc., as follows:*

**SECTION 1.** The city of Lowell, through its school department, may pay to Sprague Energy Corporation an unpaid bill incurred by said city in the sum of \$830,000, the bill being legally unenforceable against the city. The money appropriated to pay the bill shall be paid by the Lowell school department from funds of the school department.

**SECTION 2.** No bill shall be approved by the auditor of the city of Lowell for payment or paid by the treasurer of the city under the authority of this act unless and until certificates have been signed and filed with the auditor, stating under the penalties of perjury that the services and supplies for which the bill has been submitted were ordered by an official or an employee or agent of the city and that such services and supplies were rendered

---

## Chap. 76

to the city or official or agent.

**SECTION 3.** Any person who knowingly files a certificate required by section 2 which is false, and who thereby receives payment for services which were not rendered to the city of Lowell, shall be punished by imprisonment for not more than 1 year or by a fine of not more than \$300, or both.

**SECTION 4.** This act shall take effect upon its passage.

Approved April 23, 2004.

## **Chapter 77. AN ACT AUTHORIZING THE TOWN OF HINGHAM TO GRANT CERTAIN LICENSES FOR THE SALE OF ALCOHOLIC BEVERAGES.**

*Be it enacted, etc., as follows:*

**SECTION 1.** Notwithstanding section 17 of chapter 138 of the General Laws, the licensing authority of the town of Hingham may grant 4 additional licenses for the sale of all alcoholic beverages to be drunk on the premises and 1 additional license for the sale of wines and malt beverages to be drunk on the premises, pursuant to section 12 of chapter 138, and 1 additional license for the sale of all alcoholic beverages not to be drunk on the premises, pursuant to section 15 of said chapter 138, to establishments located in the Hingham Shipyard in the town of Hingham as the same is more particularly described in the Decision and Special Permit of the Hingham Board of Appeals dated May 12, 2003, and recorded with the Plymouth county registry of deeds in Book 26081, Page 1, as document number 544699. The licensing authority shall not approve the transfer of the licenses to any other location. The licenses shall be subject to all of said chapter 138 except said section 17.

**SECTION 2.** Notwithstanding section 11 of said chapter 138 or any other general or special law to the contrary, this act shall be submitted to the voters at the next annual town meeting in the town of Hingham in the form of the following article, which shall be placed on the warrant for such annual town meeting:

"Shall an act passed by the general court filed in the year 2004 entitled, 'An Act authorizing the town of Hingham to grant certain licenses for the sale of alcoholic beverages' be accepted?" If a majority of the votes on this warrant article are in the affirmative, this act shall take full effect in the town of Hingham but not otherwise.

**SECTION 3.** This act shall take effect upon its passage.

Approved April 23, 2004.

---

## **Chapter 78. AN ACT RELATIVE TO PARKING FINES IN THE TOWN OF HARWICH.**

*Be it enacted, etc., as follows:*

**SECTION 1.** Notwithstanding section 20A 1/2 of chapter 90 of the General Laws or any other general or special law to the contrary, the town of Harwich, acting by and through its board of selectmen, may establish a schedule of fines for parking violations, except as provided in section 2, as follows: for a fine paid within 21 days, not more than \$50; for a fine paid after 21 days, but before the parking clerk's reports nonpayment to the registrar of motor vehicles, not more than \$55; for a fine paid thereafter, not more than \$70; but the issuance of a parking violation shall be subject to all other provisions of said section 20A 1/2 of said chapter 90.

**SECTION 2.** Notwithstanding section 20A 1/2 of chapter 90 of the General Laws or any other general or special law to the contrary, the town of Harwich, acting by and through its board of selectmen, may establish a schedule of fines for parking violations for beach and harbors parking as follows: for a fine paid within 21 days, not more than \$125; for a fine paid after 21 days, but before the parking clerk reports nonpayment to the registrar of motor vehicles, not more than \$130; for a fine paid thereafter, not more than \$145; but the issuance of any such parking violations shall be subject to all other provisions of said section 20A 1/2 of said chapter 90.

Approved April 23, 2004.

## **Chapter 79. AN ACT RELATIVE TO PARKING FINES IN THE TOWN OF CHATHAM.**

*Be it enacted, etc., as follows:*

**SECTION 1.** Chapter 73 of the acts of 1996 is hereby repealed.

**SECTION 2.** Notwithstanding the limitations of section 20A 1/2 of chapter 90 of the General Laws or any other general or special law to the contrary relative to the fines imposed for certain parking violations, the town of Chatham, acting by and through its board of selectmen, may establish a schedule of fines for parking violations as follows: for a fine paid within 21 days, not more than \$50; for a fine paid after 21 days but before the parking clerk reports nonpayment to the registrar of motor vehicles, not more than \$55; for a fine paid thereafter, not more than \$70; but the issuance of a parking violation shall be subject to all other provisions of said section 20A 1/2 of said chapter 90.

Approved April 23, 2004.

---

**Chapter 80. AN ACT DESIGNATING A CERTAIN BRIDGE IN THE CITY KNOWN AS THE TOWN OF METHUEN AS THE JOSEPH S. FRANCIOSA BRIDGE.**

*Be it enacted, etc., as follows:*

The bridge located on interstate highway route 93 which intersects with Hampshire road in the city known as the town of Methuen shall be designated and known as the Joseph S. Franciosa bridge, in honor of Joseph S. Franciosa, a World War II veteran. The department of highways shall erect and maintain a suitable marker on the bridge bearing that designation in compliance with the standards of the department.

Approved April 23, 2004.

**Chapter 81. AN ACT RELATIVE TO POLICE MUTUAL AID AGREEMENTS.**

*Be it enacted, etc., as follows:*

Section 8G of chapter 40 of the General Laws, as amended by chapter 124 of the acts of 2003, is hereby amended by adding the following paragraph:-

While in transit to, returning from, and during a mutual aid response for another city or town, a participating police officer shall maintain the right of indemnification granted by law, or by his home city or town, or both, for all claims arising out of any action within the scope of his employment in accordance with a valid mutual aid agreement. A mutual aid agreement may provide for methods of activation or requesting and responding to mutual aid requests. The agreement may also address issues such as pay and benefits for officers, insurance, indemnification, injury compensation and other operational matters related to police services provided for a mutual aid response. Nothing in this paragraph shall be construed to expand or otherwise modify existing police powers as provided by law or any existing mutual aid agreement or both.

Approved April 23, 2004.

**Chapter 82. AN ACT AUTHORIZING THE TOWN OF DIGHTON TO ESTABLISH A SPECIAL FUND.**

*Be it enacted, etc., as follows:*

Notwithstanding section 53 of chapter 44 of the General Laws or any other general or special law to the contrary, the town of Dighton may establish a special conservation fund into which shall be deposited funds collected as rollback or conveyance or forest product taxes pursuant to chapters 61, 61A and 61B of the General Laws. The town treasurer shall keep the funds separate and apart from all other monies of the town. The conservation com-

---

## **Chap. 82**

mission of the town of Dighton, with the approval of the board of selectmen of the town, may expend the principal and income from these funds for the acquisition and management of properties for conservation purposes or anything relative thereto.

Approved April 23, 2004.

### **Chapter 83. AN ACT RELATIVE TO A CERTAIN BRIDGE IN THE TOWN OF AMESBURY.**

*Be it enacted, etc., as follows:*

**SECTION 1.** Section 1 of chapter 136 of the acts of 1998 is hereby amended by inserting after the word "Samuel", in line 3, the following:- R.

**SECTION 2.** The department of highways shall update and maintain the marker on the Samuel R. Bailey Bridge in the town of Amesbury bearing said designation in compliance with the standards of said department.

Approved April 28, 2004.

### **Chapter 84. AN ACT AUTHORIZING THE FITCHBURG HOUSING AUTHORITY TO CONVEY CERTAIN LAND.**

*Be it enacted, etc., as follows:*

The Fitchburg housing authority may convey a certain parcel of land in the city of Fitchburg to Habitat for Humanity, North Central Massachusetts, Inc. for the consideration of \$1. The conveyance shall be subject to subsections (a), (b) and (g) of section 16 of chapter 30B of the General Laws. The parcel is shown on Assessor's Maps 132 and 140, on file in the assessor's office of the city of Fitchburg.

Approved April 28, 2004.

### **Chapter 85. AN ACT ESTABLISHING A SICK LEAVE BANK FOR MARGUERITE MCWHINNIE, AN EMPLOYEE OF THE TRIAL COURT OF THE COMMONWEALTH.**

*Whereas*, The deferred operation of this act would tend to defeat its purpose, which is to establish forthwith a sick leave bank for a certain employee of the trial court, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

*Be it enacted, etc., as follows:*

Notwithstanding any general or special law, rule or regulation to the contrary, the trial court shall establish a sick leave bank for Marguerite McWhinnie, an employee of the Cambridge district court. Any employee of said trial court may voluntarily contribute 1 or more of his sick, personal or vacation days to said sick leave bank for use by said Marguerite McWhinnie. Whenever said Marguerite McWhinnie terminates employment with said trial court or requests to dissolve the sick leave bank, the balance of the sick leave time shall be transferred to the trial court paid leave bank.

Approved April 28, 2004.

**Chapter 86. AN ACT RELATIVE TO THE SCHOOL COMMITTEE OF THE CITY OF CHELSEA.**

*Be it enacted, etc., as follows:*

**SECTION 1.** Section 3-1 of Part III of section 1 of chapter 103 of the acts of 1994 is hereby amended by striking out subsections (a) and (b) and inserting in place thereof the following 2 subsections:-

(a) Composition. There shall be a school committee composed of nine members. One member, to be known as the at-large school committee member, shall be nominated and elected by and from the voters at large. Eight members, to be known as district school committee members, shall be nominated and elected by and from the voters of each district, one such member to be elected from each of the eight districts into which the city is divided in accordance with section 7-4.

(b) Eligibility. Except as otherwise provided by this charter, any voter shall be eligible to hold the office of at-large school committee member, and a district school committee member shall be a voter and resident of the district from which the school committee member is elected. An at-large school committee member who shall remove from the city during the term for which such school committee member was elected shall be deemed to have vacated the office of at-large school committee member and the office shall be considered vacant. A district school committee member who shall remove from the district during the term of office for which such district school committee member was elected shall be deemed to have vacated the office of district school committee member and the office shall be considered vacant. Any vacancy in the office of at-large school committee member or district school committee member shall be filled in accordance with section 3-2.

**SECTION 2.** Section 7-2 of Part VII of section 1 of said chapter 103 is hereby amended by striking out subsection (a) and inserting in place thereof the following subsection:-

---

## Chap. 86

(a) Signature requirements. The number of signatures of voters required to place the name of a candidate on the official ballot to be used at a preliminary election shall be as follows:

For the office of councilor-at-large the signature requirement shall be not less than fifty. For the office of the at-large school committee member the signature requirement shall be not less than fifty. For the office of district councilor the signature requirement shall be not less than fifty. For the office of district school committee member the signature requirement shall be not less than fifty.

**SECTION 3.** Notwithstanding any general or special law or charter provision to the contrary, the city of Chelsea shall conduct a special municipal election for the purpose of electing at-large and district school committee members in accordance with sections 1 and 2. This special election shall be held on the date of and in conjunction with the biennial state election in 2004, and the preceding preliminary election shall be held on the date of and in conjunction with the regular state primaries in 2004. Persons elected to serve as at-large and district school committee members at this special election shall hold their office for a one-year term commencing January 1, 2005 and until a successor is elected and sworn in following the next regularly scheduled municipal election held in 2005. Persons elected to serve as school committee members in 2003 shall hold their office for a one-year term, ending December 31, 2004.

Approved April 28, 2004.

## **Chapter 87. AN ACT AUTHORIZING A CHANGE IN LAND USE IN THE TOWN OF LAKEVILLE.**

*Be it enacted, etc., as follows:*

**SECTION 1.** The town of Lakeville may use a certain parcel of municipal well site land for installing, operating and maintaining telecommunications facilities, so long as this use is consistent with the use of the parcel for water supply. Said parcel is recorded in the Plymouth county registry of deeds, Book 3684, Page 790.

**SECTION 2.** This act shall take effect upon its passage.

Approved May 6, 2004.

## **Chapter 88. AN ACT AUTHORIZING THE TOWN OF WELLESLEY TO ESTABLISH A GROUP INSURANCE LIABILITY FUND.**

*Be it enacted, etc., as follows:*

**SECTION 1.** As used in this act, the following words shall have the following meanings:-

"Normal cost of post retirement benefits", that portion of the actuarial present value of future premium costs and claim costs payable by the town on behalf of, or direct payments to, retired employees, including school teachers, of the town and the eligible surviving spouses or dependents of deceased employees, including school teachers, of the town, pursuant to this act which is allocable to a particular fiscal year, as determined by an actuary pursuant to section 2.

"Post retirement benefit liability", the present value of the town's obligation for future premium costs and claim costs payable by the town on behalf of, or direct payments to, retired and prospective retired employees of the town and the eligible surviving spouses or dependents of deceased and prospectively deceased employees of the town attributed by the terms of the plan to employee's service rendered to the date of the measurement, pursuant to this act as determined by an actuary, pursuant to section 2.

"Premium costs and claim costs", the amounts payable by the town for the provision of retiree health and life insurance.

"Unfunded post retirement benefit liability", the difference between the post retirement benefit liability on the measurement date and the actuarial value of the assets of the Group Insurance Liability Fund on the same date, as determined by an actuary, pursuant to section 2.

"Unfunded post retirement benefit liability amortization payments", the amount which, when paid into the Group Insurance Liability Fund annually over a period of years together with the normal cost of post retirement benefits for each year of said period of years, will reduce to zero at the end of said period the unfunded post retirement benefit liability in existence as of the beginning of said period, as determined by an actuary.

**SECTION 2.** (a) There shall be in the town of Wellesley a Group Insurance Liability Fund, which shall be under the supervision and management of the town's contributory retirement board established under paragraph (b) of subdivision (4) of section 20 of chapter 32 of the General Laws. The town treasurer shall be the custodian of the fund and may employ an outside custodial service.

(b) The fund shall be credited with all amounts appropriated or otherwise made available by the town for the purposes of meeting the current and future premium costs and claim costs payable by the town on behalf of, or direct payments to, retired employees of the town and the eligible surviving spouses or dependents of deceased employees of the town pursuant to this act. Amounts in the fund including any earnings or interest accruing from the investment of such amounts shall be expended only for the payment of such premium costs and claim costs payable by the town on behalf of, or direct payments to, retired employees of the town and the eligible surviving spouses or dependents of deceased employees of the town, except as otherwise provided in this act, and only in accordance with a schedule of such payments developed by an actuary in consultation with the town's contri-

butory retirement board. Subject in each instance to the approval of the town's contributory retirement board, the town treasurer shall invest and reinvest the amounts in the fund not needed for current disbursement consistent with the prudent person rule, but no funds may be invested directly in mortgages or in collateral loans. The fund shall be subject to the public employee retirement administration commission's triennial audit.

(c) The board may employ any qualified bank, trust company, corporation, firm or person to advise it on the investment of the fund and may pay from the fund for such advice and such other services as determined by the town's contributory retirement board.

**SECTION 3.** (a) An actuary shall determine, as of January 1, 2003, and no less frequently than every second year thereafter, the normal cost of post retirement benefits, the post retirement benefit liability, and the unfunded post retirement benefit liability. All such determinations shall be made in accordance with generally accepted actuarial standards, and the actuary shall make a report of such determinations. The report shall, without limitation, detail the demographic and economic actuarial assumptions used in making such determinations, and each such report subsequent to the first such report shall also include an explanation of the changes, if any, in the demographic and economic actuarial assumptions employed and the reasons for any such changes, and shall also include a comparison of the actual expenses by the town for premium costs and claim costs constituting the post retirement benefit liability during the period since the last such determination, and the amount of such expenditures which were predicted pursuant to the previous such report for the period.

(b) An actuary, in consultation with the town's contributory retirement board, shall establish a schedule of annual payments to be made to the Group Insurance Liability Fund designed to reduce to zero the unfunded post retirement benefit liability. The schedule shall reduce the initial unfunded post retirement benefit liability over a period of years not to exceed 30. Any additional unfunded liability created subsequent to the last such determination by the provision of any new benefit or by any increase in the premium share payable by the town shall be separately so amortized over the 15 years following the date of the determination in which such additional liability is first recognized. Each such annual payment shall be equal to the sum of the unfunded post retirement benefit liability amortization payment required for such year and the payments required to meet the normal cost of post retirement benefits for such fiscal year.

(c) All payments for the purposes of meeting the town's share of premium costs and claim costs or direct payments to retired employees of the town and the surviving spouses or dependents of deceased employees of the town pursuant to this act shall be made from the Group Insurance Liability Fund in accordance with a schedule of disbursements established by the actuary.

**SECTION 4.** This act shall take effect upon its passage.

Approved May 6, 2004.

---

**Chapter 89. AN ACT RELATIVE TO THE ELECTION OF TOWN MEETING MEMBERS AND VALIDATING THE ACTIONS TAKEN AT CERTAIN TOWN MEETINGS HELD IN THE TOWN OF SOUTH HADLEY.**

*Be it enacted, etc., as follows:*

**SECTION 1.** Section 2 of chapter 45 of the acts of 1933 is hereby amended by striking out the first paragraph, as most recently amended by section 1 of chapter 416 of the acts of 2000, and inserting in place thereof the following paragraph:-

The voters of each precinct in the town of South Hadley shall elect by ballot from residents of the precinct an equal number of town meeting members, other than the offices designated in section 3 as town meeting members *ex officio*, resulting in a total of 120 registered voters to be elected from all the precincts. In the next ensuing election after a change in any precinct pursuant to the second paragraph, elections for all 120 offices shall be held and the first  $\frac{1}{3}$  in order of votes received of members elected at the annual election in each precinct shall serve until the  $\frac{1}{3}$  succeeding annual election, the second  $\frac{1}{3}$  in the order of votes received at the election shall serve until the second succeeding annual election, and the remaining  $\frac{1}{3}$  in the order of votes received at the election shall serve until the first succeeding annual election; and thereafter except as herein provided at each annual election the voters of each precinct in the town shall in like manner, elect as town meeting members  $\frac{1}{3}$  of the precinct's allotted number of town meeting members for the term of 3 years, and shall, at those elections, fill for the unexpired term or terms of any vacancies then existing in the number of town meeting members in the precinct.

**SECTION 2.** Notwithstanding any other general or special law or by-law to the contrary, the acts and proceedings taken by the town of South Hadley at the special town meetings held on October 30, 2001, May 11, 2002, June 11, 2002, December 3, 2002, May 10, 2003, October 28, 2003 and February 17, 2004 and the annual town meeting held on May 11, 2002 and May 10, 2003 and the elections of April 1, 2002 and April 7, 2003 and all actions taken pursuant thereto, are hereby ratified, validated and confirmed.

**SECTION 3.** This act shall take effect upon its passage.

Approved May 6, 2004.

**Chapter 90. AN ACT PROVIDING FOR CIGARETTE ESCROW COMPLIANCE.**

*Whereas*, The deferred operation of this act would tend to defeat its purpose, which is to provide forthwith for cigarette escrow compliance, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

*Be it enacted, etc., as follows:*

**SECTION 1.** Section 1 of chapter 94E of the General Laws, as appearing in the 2002 Official Edition, is hereby amended by striking out the definition of "Units sold" and inserting in place thereof the following definition:-

"Units sold", the number of individual cigarettes sold in the commonwealth by the applicable tobacco product manufacturer, whether directly or through a distributor, retailer or similar intermediary during the year in question, as measured by excise collected by the commonwealth on packs bearing the excise stamp of the commonwealth, or roll-your-own tobacco containers. The department of revenue shall promulgate such regulations as are necessary to ascertain the amount of state excise paid on the cigarettes of such tobacco product manufacturer for each year.

**SECTION 2.** Subclause (2) of clause (b) of section 2 of said chapter 94E, as so appearing, is hereby amended by striking out paragraph (ii) and inserting in place thereof the following paragraph:-

(ii) to the extent that a tobacco product manufacturer establishes that the amount it was required to place into escrow on account of units sold in the commonwealth in a particular year was greater than the Master Settlement Agreement payments, as determined pursuant to section IX(i) of said agreement after final determination of all adjustments, that such manufacturer would have been required to make on account of such units sold had it been a participating manufacturer, the excess shall be released from escrow and revert back to the tobacco product manufacturer; or.

**SECTION 3.** The General Laws are hereby amended by inserting after chapter 94E the following chapter:-

**CHAPTER 94F.  
COMPLEMENTARY PROVISIONS CONCERNING  
TOBACCO PRODUCT MANUFACTURERS.**

Section 1. As used in this chapter, the following words shall have the following meanings:-

"Brand family", all styles of cigarettes sold under the same trademark and differentiated from one another by means of additional modifiers or descriptors including, but not limited to, "menthol", "lights", "kings" and "100s", and includes any use of a brand name, alone or in conjunction with any other word, trademark, logo, symbol, motto, selling message, recognizable pattern of colors or any other indicia of product identification identical or similar to, or identifiable with, a previously known brand of cigarettes.

"Cigarette", as defined in chapter 94E.

"Commissioner", the commissioner of revenue or the commissioner's duly authorized representative.

"Nonparticipating manufacturer", a tobacco product manufacturer that is not a participating manufacturer.

"Master Settlement Agreement", as defined in chapter 94E.

"Participating manufacturer", as defined in section II (jj) of the Master Settlement Agreement and any amendments thereto.

"Qualified Escrow Fund", as defined in chapter 94E.

"Stamper", a person authorized by the commissioner to affix the excise stamp on packages or other containers of cigarettes pursuant to chapter 64C.

"Tobacco product manufacturer", as defined in chapter 94E.

"Units sold", as defined in chapter 94E.

Section 2. (a) A tobacco product manufacturer whose cigarettes are sold in the commonwealth, whether directly or through a wholesaler, retailer or similar intermediary, shall annually execute and deliver to the attorney general and to the commissioner, not later than April 30, in a form and manner prescribed by the attorney general, a certification under penalty of perjury that as of the date of the certification, the tobacco product manufacturer either: (1) is a participating manufacturer; or (2) is in full compliance with the escrow requirements of chapter 94E, including any installment payments which may be required under subsection (e) of section 4.

(b) A participating manufacturer shall include in its certification a complete list of all of its brand families. The participating manufacturer shall update such list 30 days prior to any addition or modification to its brand families by executing and delivering a supplemental certification to the attorney general and the commissioner.

(c) A nonparticipating manufacturer shall include in its certification a complete list of all of its brand families, with:

(i) for each brand family, the number of units sold in the commonwealth during the preceding calendar year;

(ii) a designation of all of the brand families that have been sold in the commonwealth at any time during the current calendar year;

(iii) a designation of all of the brand families sold in the commonwealth during the preceding calendar year that no longer are being sold in the commonwealth as of the date of the certification; and

(iv) the identification, by name and address, of any other manufacturer of such brand families in the preceding calendar year or current calendar year. The nonparticipating manufacturer shall update the list 30 days prior to any addition or modification to its brand families by executing and delivering a supplemental certification to the attorney general and the commissioner.

(d) In the case of a nonparticipating manufacturer, such certification shall further certify:-

(i) that the nonparticipating manufacturer is registered to do business in the commonwealth or has appointed an agent for service of process and provided notice thereof as required by section 3;

(ii) that the nonparticipating manufacturer maintains a qualified escrow fund established under and governed by a qualified escrow agreement that has been reviewed and approved by the attorney general;

(iii) that the nonparticipating manufacturer is in full compliance with chapter 94E and this chapter and any regulations promulgated pursuant thereto; and

(iv) the name, address and telephone number of the financial institution where the nonparticipating manufacturer has established such qualified escrow fund; the account number of such qualified escrow fund and the subaccount number for the commonwealth; the amount such nonparticipating manufacturer placed in such fund for units sold in the commonwealth during the preceding calendar year; the date and amount of each such deposit and such evidence or verification as may be deemed necessary by the attorney general to confirm them; and the dates and amounts of all withdrawals or transfers of funds made at any time from such qualified escrow fund or from any other qualified escrow fund into which the nonparticipating manufacturer ever made escrow payments pursuant to said chapter 94E or this chapter and any regulations promulgated pursuant thereto.

(e) A tobacco product manufacturer may not include a brand family in its certification unless:

(i) in the case of a participating manufacturer, the participating manufacturer affirms that the brand family is deemed to be its cigarettes for purposes of calculating its payments under the Master Settlement Agreement for the relevant year, in the volume and shares determined pursuant to the Master Settlement Agreement; and

(ii) in the case of a nonparticipating manufacturer, said nonparticipating manufacturer affirms that the brand family is deemed to be its cigarettes for purposes of chapter 94E. Nothing in this section shall be construed to limit or otherwise affect the commonwealth's right to maintain that a brand family constitutes cigarettes of a different tobacco product manufacturer for the purposes of calculating payments under the Master Settlement Agreement or for the purposes of said chapter 94E.

(f) The tobacco product manufacturer shall maintain all invoices and documentation of sales and other such information relied upon for such certification for a period of 5 years, unless otherwise required by law to maintain them for a greater period of time.

(g) In consultation with the attorney general, the commissioner shall develop a public directory listing all tobacco product manufacturers who have provided certifications conforming to the requirements of subsection (a) and all brand families that are listed in such certifications, subject to the following:

(1) The commissioner shall not include in the directory the name or brand families of a nonparticipating manufacturer that fails to provide the required certification or whose certification the attorney general determines is not complete and accurate and otherwise in compliance with subsections (a) to (f), inclusive, unless such violation has been corrected to the satisfaction of the attorney general.

(2) The commissioner shall not include in the directory the name or brand families of a nonparticipating manufacturer if the attorney general determines that: (i) all escrow payments required pursuant to chapter 94 E for any period for a brand family, whether or not listed by the nonparticipating manufacturer, have not been fully paid into a qualified escrow fund governed by a qualified escrow agreement approved by the attorney general; or (ii) all outstanding final judgments, including interest thereon, for violations of said chapter 94E or this chapter have not been fully satisfied for such brand family and such manufacturer.

---

## Chap. 90

(3) The commissioner shall take reasonable steps to update the directory as necessary in order to keep the directory in conformity with the requirements of this chapter.

(4) Every stamper shall provide to the commissioner, and update as necessary, an electronic mail address for the purpose of receiving any notices as may be made pursuant to this chapter.

(h) No person shall: (1) affix an excise stamp to a package or other container of cigarettes of a tobacco product manufacturer or brand family not included in the directory; or (2) sell, offer or possess for sale in the commonwealth, cigarettes of a tobacco product manufacturer or brand family not included in the directory.

Section 3. (a) A nonresident or foreign nonparticipating manufacturer who has not registered to do business in the commonwealth as a foreign corporation or business entity shall, as a condition precedent to having its brand families listed or retained in the directory, appoint and continually engage, without interruption, the services of an agent in the commonwealth to act as agent for the service of process on whom all process, and any action or proceeding against it concerning or arising out of the enforcement of chapter 94E and this chapter, may be served in any manner authorized by law. Such service shall constitute legal and valid service of process on the nonparticipating manufacturer. The nonparticipating manufacturer shall provide the name, address, phone number and proof of the appointment and availability of such agent to, and to the satisfaction of, the attorney general.

(b) In the event that a nonparticipating manufacturer terminates the authority of an agent, the nonparticipating manufacturer shall provide notice to the attorney general 30 calendar days before the termination and shall provide proof to the satisfaction of the attorney general of the appointment of a new agent not less than 5 calendar days before the termination of the existing agent appointment. In the event that an agent terminates an agency appointment, the nonparticipating manufacturer shall notify the attorney general of the termination within 5 calendar days and shall include proof to the satisfaction of the attorney general of the appointment of a new agent.

(c) A nonparticipating manufacturer whose products are sold in the commonwealth, without appointing or designating an agent as required in this section, shall be deemed to have appointed the state secretary as such agent and may be proceeded against in courts of the commonwealth by service of process upon said state secretary. The appointment of the state secretary as such agent shall not satisfy the condition precedent under section 2 to having the brand families of the nonparticipating manufacturer listed in the directory.

Section 4. (a) Not later than 20 days after the end of each calendar quarter, and more frequently if so directed by the commissioner, each stamper shall submit such information as the commissioner requires to facilitate compliance with this chapter. The stamper shall maintain and make available to the commissioner and the attorney general all invoices and documentation of sales of all nonparticipating manufacturer of cigarettes and any other information relied upon in reporting to the commissioner for a period of 5 years.

(b) The commissioner may disclose to the attorney general any information received

under this chapter and requested by the attorney general for purposes of determining compliance with and enforcing the provisions of this chapter and chapter 94E. The commissioner and the attorney general may share information received under this chapter and chapter 94E with each other and with other federal, state and local agencies for purposes of enforcement of this chapter, chapter 94E and the corresponding laws of other states.

(c) The attorney general may require from the nonparticipating manufacturer or from the financial institution at which the nonparticipating manufacturer has established a qualified escrow fund for the purpose of compliance with chapter 94E, information and documents relating to such fund, including proof of the amount of money in the fund, exclusive of interest, and the dates and amounts of deposits and withdrawals.

(d) In addition to such other information as may be required, the commissioner and the attorney general may require a stamper or tobacco product manufacturer to submit information including, but not limited to, samples of the packaging and labeling of each brand family, as may be necessary to enable the commissioner and the attorney general to determine whether a stamper or a tobacco product manufacturer is in compliance with this chapter and chapter 94E.

(e) To promote compliance with this chapter and chapter 94E, the commissioner may promulgate regulations requiring a tobacco product manufacturer subject to the requirements of subsection (c) of section 2 to make the required escrow deposit in quarterly installments. The commissioner and the attorney general may require production of information sufficient to enable the commissioner and the attorney general to determine the adequacy of the amount of the installment deposit.

Section 5. (a) No person shall: (i) sell or distribute cigarettes in violation of subsection (h) of section 2; or (ii) acquire, hold, own, possess, transport, import or cause to be imported cigarettes that the person knows or should know are intended for distribution or sale in the commonwealth in violation of said subsection (h). A violation of this section shall be punished by a fine of not more than \$1,000 or by imprisonment in a house of correction for not more than 1 year, or both.

(b) In addition to or in lieu of any other civil or criminal remedy provided by law, upon a determination that a stamper has violated subsection (h) of section 2 or any regulation adopted pursuant to said subsection (c) of section 6, the commissioner may revoke or suspend the stamping authority of the stamper in the manner provided in chapter 62C or chapter 64C. Each stamp affixed and each sale or offer to sell cigarettes in violation of said subsection (h) of said section 2 shall constitute a separate violation. The commissioner may also impose a civil penalty in an amount not to exceed the greater of 500 per cent of the retail value of the cigarettes sold or \$5,000 for each violation.

(c) Any cigarettes that have been sold, offered for sale or possessed for sale in the commonwealth in violation of subsection (h) of section 2 shall be deemed contraband, and such cigarettes shall be subject to seizure and forfeiture. All cigarettes so seized and forfeited shall be destroyed and not resold.

(d) The attorney general, on behalf of the commissioner, may seek an injunction to restrain a threatened or actual violation of this chapter and to compel compliance with its terms.

(e) If a court determines that a person has violated this chapter, the court shall order any profits, gains, gross receipts or other benefits from the violation to be disgorged and paid to commonwealth.

(f) In any civil action brought to enforce this chapter or chapter 94E, the commonwealth shall be entitled to recover the costs of investigation and the costs of the action, including reasonable attorney fees and expert witness fees.

(g) A person who violates subsection (h) of section 2 shall be deemed to have engaged in an unfair and deceptive trade practice in violation of chapter 93A.

(h) Unless otherwise expressly provided, the remedies and penalties provided by this chapter are cumulative to each other and to remedies or penalties otherwise available.

Section 6. (a) A determination of the commissioner to not list or to remove from the directory a brand family or tobacco product manufacturer shall be subject to review in the manner prescribed in section 4 of chapter 249.

(b) The commissioner shall not grant or renew stamping authority to a person unless the person has certified to the commissioner, in writing, that he is knowledgeable of this chapter and shall comply with its terms.

(c) The commissioner and the attorney general may promulgate regulations necessary to effectuate the purposes of this chapter.

(d) This chapter is not intended to and shall not be deemed to amend chapter 94E. If a court of competent jurisdiction finds that a provision of this chapter is in conflict with a provision of said chapter 94E, then the provision of said chapter 94E shall control and the provision of this chapter shall not apply. If any part of this chapter would cause chapter 94E to no longer constitute a "model statute" or a "qualifying statute," as those terms are defined in the Master Settlement Agreement, then that part of this chapter shall not apply.

**SECTION 4.** If section 2 of this act or any portion of the amendment to paragraph (ii) of subclause (2) of clause (b) of section 2 of chapter 94E of the General Laws made by section 2 of this act is held by a court of competent jurisdiction to be unconstitutional, then said paragraph (ii) shall be deemed to be repealed in its entirety. If said subclause (2) shall thereafter be held by a court of competent jurisdiction to be unconstitutional, then section 2 of this act shall be deemed repealed, and said paragraph (ii) shall be restored as if no such amendments had been made. Neither any holding of unconstitutionality nor the repeal of said paragraph (ii) shall affect, impair or invalidate any other provision of said chapter 94E, or the application of section 2 of said chapter 94E to any other person or circumstance, and such remaining provisions of said chapter 94E shall at all times continue in full force and effect.

**SECTION 5.** For the year 2004, if the effective date of this act is later than March 16, 2004: the first report of stampers required by subsection (a) of section 4 of chapter

---

## Chap. 90

94F of the General Laws shall be due 30 days after the effective date; the certifications by a tobacco product manufacturer described in subsections (a) to (f), inclusive, of section 2 of said chapter 94F shall be due 45 days after such effective date; and the directory described in subsection (g) of said section 2 shall be published or made available within 90 days after such effective date.

Approved May 6, 2004.

## Chapter 91. AN ACT RELATIVE TO VOTING PRECINCTS IN THE TOWN OF AMHERST.

*Be it enacted, etc., as follows:*

**SECTION 1.** Notwithstanding any general or special law to the contrary, the precinct lines approved by the board of selectmen of the town of Amherst on June 11, 2001, and approved by the local election district review commission on July 10, 2001, shall be replaced by the precinct lines approved by the Amherst board of selectmen on January 27, 2003. All elections held after the annual election of 2003 in the town shall be conducted using the new precinct lines, until the time as new precincts are drawn in accordance with section 6 of chapter 54 of the General Laws.

**SECTION 2.** A copy of the new precinct lines, including a written description, shall be filed with the local election district review commission.

**SECTION 3.** The board of registrars and the town clerk of the town of Amherst may take all necessary actions to assure compliance with this act including, but not limited to, actions assuring the accuracy of the voting lists for each precinct.

**SECTION 4.** This act shall take effect upon its passage.

Approved May 6, 2004.

## Chapter 92. AN ACT AUTHORIZING THE CITY OF QUINCY TO ESTABLISH FUNDS TO ENHANCE STREETS AND SIDEWALKS AND TO OVERSEE THE QUARRY HILLS RECREATION COMPLEX.

*Be it enacted, etc., as follows:*

**SECTION 1.** Notwithstanding any general or special law to the contrary, the city of Quincy may establish and maintain in the city treasury a special fund to be known as the Public Works Enhancement Fund, into which shall be deposited 50 per cent of the revenues received by the city of Quincy from a lease with Quarry Hills Associates, Inc., as authorized by chapter 50 of the acts of 1994. The treasurer of the city of Quincy shall maintain the fund

as a separate account. Any interest earned on any fund balance shall be credited to and become a part of the fund. The commissioner of public works under the direction of the mayor shall use the funds for the sole purpose of designing, repairing, maintaining and reconstructing the streets and sidewalks of the city of Quincy and for the acquisition of any capital equipment necessary to accomplish that purpose. Use of the funds shall be subject to the following:-

(a) On or before March 1 of each year, the mayor shall submit to the city council for its review a report of any and all design work, repairs, maintenance, reconstruction and other street and sidewalk work performed with funds from the Public Works Enhancement Fund for the proceeding calendar year, and shall submit an updated pavement management plan for the present calendar year construction season. Any expenditure from the Public Works Enhancement Fund shall be in accordance with the pavement management plan.

(b) On or before March 1 of each year, the mayor shall submit to the city council for its review a report of any kind and all capital equipment expenditures from the Public Works Enhancement Fund for the preceding calendar year, and shall submit a report of anticipated expenditures for the present calendar year. Notwithstanding the preceding sentence, any and all expenditures for the purchase of capital equipment in accordance with this act shall be subject to appropriation by the mayor and a vote of the city council.

**SECTION 2.** Notwithstanding any general or special law to the contrary, the city of Quincy may establish and maintain in the city treasury a special fund to be known as the Quarry Hills Oversight Fund, into which shall be deposited 10 per cent of the revenues by the city of Quincy from a lease with Quarry Hills Associates, Inc., as authorized by chapter 50 of the acts of 1994. The fund shall be maintained by the treasurer of the city of Quincy as a separate account. Any interest earned on any fund balance shall be credited to and become a part of the fund. The mayor shall use the funds, without further appropriation, for the sole purpose of overseeing the operation of the Quarry Hills Recreational Complex as authorized by the lease described in said chapter 50.

In furtherance of this section, the city of Quincy may enter contracts with accountants, auditors, attorneys, engineers, environmental consultants and other professionals to insure compliance with applicable obligations of Quarry Hills Associates, Inc. under the lease and other permit or regulatory obligations.

The city of Quincy may make supplemental appropriations to this fund in furtherance of the objectives of the act.

The auditor of the city of Quincy shall forward to the mayor and the city council a report of the fund including the receipts and disbursements within 90 days after the end of each fiscal year.

**SECTION 3.** This act shall take effect upon its passage.

Approved May 6, 2004.

---

### **Chapter 93. AN ACT ESTABLISHING A PRESERVATION FUND IN THE TOWN OF HUBBARDSTON.**

*Be it enacted, etc., as follows:*

Notwithstanding any other general or special law to the contrary, the town of Hubbardston may establish and maintain a special account known as the Fund for Hubbardston Preservation. The town shall keep the fund separate and apart from all other monies of the town and shall deposit in the account all monies received from fees collected from private functions for use of town owned land designated as open space, recreation land or conservation land or from fees collected from activities or sales, such as sale of timber, related to such land, or from donations made to the fund. Expenditures from the fund may be made to acquire additional open space, with the approval of the selectboard and town meeting, to maintain or improve existing recreation and open space lands and to preserve town owned historical sites and buildings. Expenditures from the fund shall be authorized by the selectboard based on recommendations of the parks and recreation committee or, if no such committee exists, by a Hubbardston preservation committee that shall be appointed by the select board of the town for 1 year term running from July 1 to June 30. The Hubbardston preservation committee shall include 1 member each from the recreation commission, recreation field committee, common committee, cemetery commission and open space committee and 2 at large members. Ex officio members shall include 1 member of the planning board, 1 member of the historical commission, 1 member of the conservation commission and the highway superintendent.

Approved May 6, 2004.

### **Chapter 94. AN ACT RELATIVE TO THE CHARTER OF THE TOWN OF ROCKLAND.**

*Be it enacted, etc., as follows:*

Section 2:02 of Article II of the charter of the town of Rockland, which is on file in the office of the archivist of the commonwealth as provided in section 12 of chapter 43B of the General Laws, is hereby amended by striking out paragraphs D and E and inserting in place thereof the following 2 paragraphs:-

D. The selectmen shall cause the annual town report to be printed on or before May first of the following fiscal year, and shall cause a copy of the report to be distributed at the following locations: main entrance to the town hall, Rockland Public Library and the Rockland Senior Center.

E. The selectmen shall prepare the warrant for the annual town meeting, which warrant shall be closed 50 days before the date of the meeting. The selectmen shall cause copies of the warrant for the annual town meeting to be distributed at the following locations: main entrance to the town hall, Rockland Public Library and Rockland Senior Center at least

---

## **Chap. 94**

14 days before holding the meeting. The warrant for the annual town meeting shall also be announced in a newspaper of general circulation within the town at least 14 days before the town meeting. The notice shall include locations where a copy of the warrant can be obtained.

(a) The selectmen shall have the power to order special town meetings as they consider necessary, and shall prepare the warrants for the meetings; but, to order a special town meeting the selectmen shall first adopt, by a majority vote of their board, a resolution stating clearly the emergency nature of the situation prompting their order.

(b) No warrant for a special town meeting shall close until at least 7 days have passed from the date of adoption of their resolution; and each article inserted in the warrant shall have attached to it a brief statement explaining the emergency nature of the article.

(c) The selectmen shall cause copies of the warrant for each special town meeting to be distributed at the following locations: main entrance to the town hall, Rockland Public Library and the Rockland Senior Center at least 14 days before the town meeting. The warrant for each special town meeting shall also be announced in a newspaper of general circulation within the town at least 14 days before the town meeting. The notice shall include locations where the warrant can be obtained. Upon a majority vote of the board, the selectmen shall have the power to open any warrant after it has closed for the purpose of inserting articles, if the articles are of an emergency nature and have attached to them a brief statement explaining the emergency.

Approved May 6, 2004.

## **Chapter 95. AN ACT AUTHORIZING THE TOWN OF PALMER TO ESTABLISH A SPECIAL REVENUE FUND.**

*Be it enacted, etc., as follows:*

Notwithstanding any general or special law to the contrary, the town of Palmer may establish a special revenue fund into which shall be deposited any net surplus realized from the operation of the town sewer system. The town treasurer shall keep the funds separate and apart from all other monies of the town. The principal and interest of the fund may be expended, subject to appropriation, for new construction and extraordinary maintenance.

Approved May 6, 2004.

## **Chapter 96. AN ACT RELATIVE TO MEDICARE DRUG BENEFITS.**

*Whereas*, The deferred operation of this act would tend to defeat its purpose, which is forthwith to simplify the administration process by which elders and the disabled access

Transitional Assistance Program Medicare drug benefits, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

*Be it enacted, etc., as follows:*

**SECTION 1.** Subsection (b) of section 39 of chapter 19A of the General Laws, as appearing in the 2002 Official Edition, is hereby amended by adding the following sentence:- The program may apply on behalf of enrollees to obtain Transitional Assistance Program Medicare drug benefits pursuant to 42 U.S.C. sections 1395 et seq., but the program shall permit enrollees to decline before enrollment with a discount drug card sponsor; and the program shall not reduce a person's prescription drug benefit under this section.

**SECTION 2.** The secretary of elder affairs, in collaboration with the secretary of health and human services, shall analyze the federal Medicare Prescription Drug, Improvement and Modernization Act of 2003, and submit a report with recommendations to the house and senate committees on ways and means and the joint committee on health care no later than September 1, 2004, on the following: (a) whether the commonwealth would be required to discontinue the Prescription Advantage program as a result of the enactment of this federal legislation; (b) whether the commonwealth should develop and request a waiver for a new program of outpatient drug assistance that combines features of the Medicare Part D benefit and Prescription Advantage; (c) how the state is spending any savings from the Transitional Assistance Program Medicare drug benefit, and (d) what legislative modifications the governor should request that Congress make in order to improve the Medicare Part D prescription drug benefit. The report shall also include, but not be limited to, an analysis of the number of persons who are eligible for benefits under Prescription Advantage who will not be eligible for Medicare Part D coverage and reasons therefor; a detailed summary of the additional costs that may be imposed on persons who are eligible for benefits under Prescription Advantage by the enactment of Medicare Part D legislation that were not previously imposed under Prescription Advantage; a list of the benefits that seniors and other Prescription Advantage members may lose under Medicare Part D coverage; a cost benefit analysis of the Medicare Prescription Drug, Improvement and Modernization Act of 2003 for the commonwealth; and a detailed recommendation on implementing this act, including, but not limited to, funding sources and a schedule of implementation. The secretary of health and human services shall provide to the joint committee on health care no later than September 1, 2004, an informational chart suitable for public posting and distribution setting forth: (1) the eligibility requirements for prescription drug benefits under Medicare Part D, (2) the benefits available under Medicare Part D to eligible persons, with separate descriptions for each eligibility or benefits group or population so that residents will be able to determine the actual benefits for which they would be entitled, and (3) the additional benefits that would be available to an eligible person under Prescription Advantage that will not be available under Medicare Part D.

Approved May 12, 2004.

---

**Chapter 97. AN ACT RELATIVE TO THE COMPUTERIZATION OF THE EXAMINATION FOR CERTIFICATION FOR THE PRACTICE OF PUBLIC ACCOUNTANCY.**

*Be it enacted, etc., as follows:*

Chapter 112 of the General Laws is hereby amended by striking out section 87A 1/2, as appearing in the 2002 Official Edition, and inserting in place thereof the following section:-

Section 87A 1/2. (a) The board shall have the power to sue and be sued in its official name as an agency of the commonwealth; to issue subpoenas to compel the attendance of witnesses and the production of documents; to administer oaths; to take testimony and to receive evidence concerning all matters within its jurisdiction. In case of disobedience of a subpoena, the board may invoke the aid of any court of the commonwealth in requiring the attendance and testimony of witnesses and the production of documentary evidence. The board, its members and its agents, shall be immune from personal liability for actions taken in good faith in the discharge of the board's responsibilities, and the commonwealth shall hold the board, its members and its agents, harmless from all costs, damages and attorneys' fees arising from claims and suits against them with respect to matters to which such immunity applies.

(b) The board may adopt such rules as it deems necessary, which shall include, but not be limited to:

(1) rules governing the board's meetings and the conduct of its business;

(2) rules of procedure governing the conduct of investigations and hearings by the board;

(3) rules specifying the educational and experience qualifications for the issuance of certificates under this section, and the continuing professional education required for renewal of licenses under paragraph (e) of section 87B;

(4) rules of professional conduct directed to controlling the quality and probity of the practice of public accountancy by license holders and dealing, among other things, with independence, integrity and objectivity; competence and technical standards; responsibilities to the public; and responsibilities to clients; and

(5) rules regarding quality reviews that may be required to be performed under this chapter.

(c) At least 60 days before the proposed effective date of any rule or amendment thereto or any other provision of this section or sections 87A 3/4 to 87E, inclusive, the board shall publish notice of the proposed action and of the public hearing to be held, not more than 30 days before such effective date, in accordance with chapter 30A.

(d) The board shall grant the certificate of certified public accountant to any person who meets the requirements of good character, education, experience and examination and who pays the fees established by the commissioner of administration. For the purposes of this section, "good character" shall mean a lack of a history of dishonest or felonious acts.

The board may refuse to grant a certificate on the grounds of failure to satisfy this requirement only if there is a substantial connection between the lack of good character of the applicant and the professional responsibilities of a licensee and if the finding of the board of lack of good character is supported by clear and convincing evidence. When an applicant is found to be unqualified for a certificate because of lack of good character, the board shall furnish the applicant with a statement containing the findings of the board, a complete record of the evidence upon which the determination was based and a notice of the applicant's right of appeal.

(e) The educational requirement for a certificate shall be at least a bachelor's degree or its equivalent from a college or university approved by the board, including an accounting concentration or its equivalent as determined by the board. The educational requirement shall consist of a minimum of 150 semester hours of course work or its equivalent earned as part of, either or both a bachelor's degree or master's degree program which includes courses in accounting education, business administration and general education. The educational requirements to take the examination required to be passed as a condition for the granting of a certificate shall be set forth in regulations promulgated by the board.

(f) The experience requirement for a certificate shall be determined by the board in its discretion.

(g) The examination required to be passed as a condition for the granting of a certificate shall be administered in a manner to be specified by the board by rule. The examination shall test the applicant's knowledge on subjects to be determined by the board by rule. An applicant who is a member of the bar shall not be required to take an examination in business law but in order to be excused from the business law portion of the examination, an applicant shall present a certificate from the clerk of the supreme judicial court attesting to the fact that the applicant is a member of the bar in good standing. The time for holding any such examination shall be fixed by the board and may be changed as necessary. The board shall prescribe by rule the methods of applying for and conducting the examination, including methods for grading and determining a passing grade, entitling an applicant to a certificate and the provision of credit for passage of parts of the examination. The board shall, to the extent possible, insure that the grading of the examination and the passing grades are uniform with those applicable in all other states. The board may make such use of all or any part of the uniform certified public accountant examination and the advisory grading service of the American Institute of Certified Public Accountants and may contract with third parties to perform such administrative services with respect to the examination, as it deems appropriate to assist it in performing its duties hereunder.

(h) The board may charge, or provide for a third party administering the examination to charge, each applicant a fee for each part of the examination or reexamination taken by the applicant.

Approved May 13, 2004.

---

**Chapter 98. AN ACT DESIGNATING THE FORMER ADMINISTRATION BUILDING AT TEWKSBURY HOSPITAL AS THE RICHARD P. MORRIS BUILDING.**

*Be it enacted, etc., as follows:*

**SECTION 1.** The former administration building at Tewksbury hospital in the town of Tewksbury shall be designated and known as the Richard P. Morris building, in honor of Richard P. Morris and his years of dedicated service to Tewksbury hospital and the town of Tewksbury. A suitable marker bearing that designation shall be attached thereto by the department of public health.

**SECTION 2.** This act shall take effect upon its passage.

Approved May 13, 2004.

**Chapter 99. AN ACT RELATIVE TO THE DISPOSITION OF CERTAIN STATE OWNED LAND IN THE CITY OF MEDFORD.**

*Whereas*, The deferred operation of this act would tend to defeat its purpose, which is to convey forthwith certain land in the city of Medford, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

*Be it enacted, etc., as follows:*

**SECTION 1.** The commissioner of capital asset management and maintenance may convey by deed to the Massachusetts Bay Transportation Authority, a fee interest in and to a certain parcel of park land owned by the commonwealth and presently under the care, custody and control of the department of conservation and recreation and located in the city of Medford, in consideration of and subject to the requirements of sections 2 to 3, inclusive, and subject to such terms and conditions as the commissioner may prescribe.

The parcel is shown as Parcel 35A on a plan of land entitled "Plan of Land in Medford, Mass. (Middlesex County) being a subdivision of Lots 34 & 35 of L.C. 24580N," prepared for the MBTA by The BSC Group, Inc., which plan is dated June 25, 2002 and any revisions as required by the commissioner to determine the exact boundaries in consultation with the department of conservation and recreation and the Massachusetts Bay Transportation Authority.

**SECTION 2.** In consideration for the conveyance authorized in section 1, the commonwealth may accept the conveyance by the Massachusetts Bay Transportation Authority of a fee interest in and to 2 certain parcels of land also situated in the city of Medford and lying off the southerly side of Revere Beach Parkway, and shown on the survey plan as Parcel 34B and Parcel No. 368, including any revisions required by the commissioner to determine the exact boundaries in consultation with the department of conservation and

recreation and the Massachusetts Bay Transportation Authority, which parcels shall be under the care, custody and control of the department of conservation and recreation.

**SECTION 3.** No deed conveying the property described in section 1 by or on behalf of the commonwealth shall be valid unless the deed provides that the property shall not be used in a manner which will adversely impact the adjacent park property retained by the commonwealth and under the care, custody and control of the department of conservation and recreation.

**SECTION 4.** If the property described in section 1 is not used for the purposes described in section 1, or if the use for these purposes is abandoned at any time or if any other use is undertaken on the property, the property shall revert to the commonwealth upon notice by the commissioner of capital asset management and maintenance to the Massachusetts Bay Transportation Authority.

Approved May 13, 2004.

**Chapter 100. AN ACT RELATIVE TO THE RETIREMENT AND HEALTH BENEFITS OF CERTAIN ELECTED OFFICIALS OF THE TOWN OF RICHMOND.**

*Be it enacted, etc., as follows:*

**SECTION 1.** Notwithstanding chapters 32 and 32B of the General Laws or any other general or special law to the contrary, any elected official of the town of Richmond who receives regular annual compensation from the town that is less than \$10,000 annually, adjusted annually according to changes in the United States Consumer Price Index as reported by the Bureau of Labor Statistics as of June 30, shall not be eligible for the benefits provided under said chapters 32 and 32B.

**SECTION 2.** Section 1 shall not impair the retirement or health benefits of any person serving as an elected official in the town of Richmond as of January 1, 2003, provided, however, if said elected official fails of nomination or re-election and is subsequently elected following such failure said elected official shall be subject to this act.

**SECTION 3.** This act shall take effect upon its passage.

Approved May 13, 2004.

**Chapter 101. AN ACT AUTHORIZING THE TOWN OF NORFOLK TO ESTABLISH A DEPARTMENT OF PUBLIC WORKS.**

*Be it enacted, etc., as follows:*

**SECTION 1.** There is hereby established in the town of Norfolk a department of public works, in this act called the department, which shall be under the supervision and control of the board of selectmen.

**SECTION 2.** The board shall have all the powers and duties now or from time to time vested by general or special law, or by town by-law in the following boards, commissions, or officers: highway department, including highway superintendent; water department, including the board of water commissioners; and cemetery commission. The board of water commissioners and the cemetery commission are hereby abolished. No existing contract or liability shall be affected by the abolition, but the board shall in all respects be the lawful successor of the entities so abolished.

**SECTION 3.** The department shall have all the functions now or from time to time vested by general or special law, or by town by-law in the following departments or offices: highway department, water department, cemetery department, and the tree warden.

**SECTION 4.** The department shall have additional powers related to the duties and responsibilities of a department of public works as the town may from time to time provide, by a  $\frac{2}{3}$  vote at town meeting, notwithstanding any other provisions of law to the contrary notwithstanding.

**SECTION 5.** Notwithstanding any provision of this act to the contrary, any powers transferred to the board of selectmen under this act shall be exercised for a transitional period of 3 years from the effective date of this act by an interim board of public works, consisting of 5 members selected as provided for in this section. All members shall serve in a voluntary capacity with no compensation from the town. The members shall include the 2 senior water commissioners, whose positions were abolished by this act, and 3 public members appointed by the board of selectmen, who shall be appropriately qualified by training and experience. A simple majority vote by the interim board shall represent the authority of the entire interim board for all actions, affirmations, approvals, or the like required by or from the interim board. The interim board shall automatically dissolve on the third anniversary of final adoption of this act by the town, as provided for in section 11. Once the interim board dissolves, all powers, duties, responsibilities, and authorities as defined throughout this act for the board, shall be assumed by the board of selectmen.

**SECTION 6.** The department shall consist of divisions as defined by town by-law.

**SECTION 7.** No later than 120 days prior to the beginning of each fiscal year, the board of selectmen shall convene a public hearing, to determine the ensuing fiscal year water budget and set equitable prices and rates for usage of the water system. The date, time, and place of the hearing shall be included in all water bills mailed in the fall. At least 3 weeks prior to the proposed hearing, the board shall cause notice to be published in at least 1 newspaper that serves the town of Norfolk, and posted at town hall. The board will take testimony from any interested party, and shall submit its recommendation to the town meeting, which shall act upon the budget in the same manner as all other budgets.

**SECTION 8.** The board, or the town administrator appointed pursuant to chapter

217 of the acts of 1994, if so authorized by the board, shall interview, appoint, fix the tenure for a period of 3 years, fix the compensation of, and enter into a contract with a director of public works, subject to appropriation. Such contract shall prevail over any conflicting provision of any local personnel by-law, rule, or regulation. The director shall exercise and perform, under the supervision and direction of the board, the powers, rights, and duties that have been transferred to the department hereunder, and as the board may from time to time designate. The director shall be responsible for the efficient exercise and performance of the powers, rights, and duties. The director shall be specially fitted by education, training, licensure, and experience to perform the duties of the office, with other qualifications as set forth in the town by-laws. During tenure of office, the director shall not hold elective or appointed office within the town, nor engage in any other business or occupation without the express written prior authorization of the board. If the board requires, and at the expense of the town, the director shall give to the town a bond with surety company authorized to transact business in the commonwealth for the faithful performance of duties in the sum and upon the conditions as the board may require. Subject to town personnel by-law and appropriation and unless objected to by the board or town administrator within 30 days of the date of appointment, suspension, or removal, the director may appoint, suspend, or remove such assistants, agents, and employees as the exercise and performance of the director's powers, rights, and duties may require. The director shall keep records of the doings of his office, and render to the board and town administrator as-often as they may require, a report of operations under the director's control during the period reported upon; and annually and from time to time as required by the board and town administrator, shall make a synopsis of the reports for publication. The director shall keep the board and town administrator advised as to the needs of the town within the scope of the director's duties, and shall furnish to the board and town administrator each year, upon request, a detailed estimate in writing of the appropriations required during the next succeeding fiscal year for the proper exercise and performance of all said powers, rights, and duties.

**SECTION 9.** Each permanent full-time employee of any board, department, or office abolished by this act shall be transferred to and become an employee of the department.

**SECTION 10.** All real property and equipment owned by the town of Norfolk and under the control of the offices, boards, or commissions abolished by this act shall be transferred to and be under the control and direction of the department.

**SECTION 11.** This act shall be submitted to the voters of the town of Norfolk for acceptance at the next town election, in the form of the following question, which shall be placed on the official ballot to be used at said election:-

"Shall an act passed by the general court entitled, 'An Act authorizing the town of Norfolk to establish a Department of Public Works', be accepted?"

If a majority of votes cast in answer to this question are in the affirmative, this act shall take effect on July 1, 2004.

Approved May 17, 2004.

---

## **Chapter 102. AN ACT RELATIVE TO CERTAIN SEPARATE ACCOUNTS.**

*Be it enacted, etc., as follows:*

**SECTION 1.** Section 132G of chapter 175 of the General Laws, as appearing in the 2002 Official Edition, is hereby amended by inserting after the word "contracts", in line 15, the following words:- or in connection with contracts payable in whole or in part in fixed amounts or variable amounts, or a combination thereof, or for which the accumulation in whole or in part is guaranteed as to principal amount or stated rate of interest.

**SECTION 2.** The second paragraph of said section 132G of said chapter 175, as so appearing, is hereby further amended by striking out the second sentence and inserting in place thereof the following 2 sentences:- All amounts received by the life company which are required by a contract on a variable basis to be applied to provide variable benefits, payments or values thereunder shall be placed in the appropriate separate account or accounts. If, and to the extent so provided under the applicable, variable, fixed or guaranteed contracts, that portion of the assets of the separate account equal to the reserves and other contract liabilities with respect to the account shall not be chargeable with liabilities arising out of any other business the life company may conduct.

Approved May 20, 2004.

## **Chapter 103. AN ACT RELATIVE TO THE DEDHAM-WESTWOOD WATER DISTRICT.**

*Be it enacted, etc., as follows:*

**SECTION 1.** Paragraph (d) of section 8 of chapter 372 of the acts of 1984, as most recently amended by section 1 of chapter 165 of the acts of 2001, is hereby further amended by striking out the word "Dedham", in line 4, and inserting in place thereof the following words:- Dedham-Westwood Water District.

**SECTION 2.** Notwithstanding section 1, the provision of water services by the Massachusetts Water Resources Authority to Dedham-Westwood Water District shall commence only after the Massachusetts water resources authority board of directors has voted approval after making findings as required in clauses (1) to (6), inclusive, of paragraph (d) of section 8 of chapter 372 of the acts of 1984 and other determinations in accordance with its applicable policies, and after all required approvals have been received, including other regulatory bodies where required and the advisory board of said authority, but section 71 of chapter 372 of the acts of 1984 shall not apply.

Approved May 20, 2004.

---

**Chapter 104. AN ACT RELATIVE TO DAMAGES FOR HARMED ASSISTANCE ANIMALS.**

*Be it enacted, etc., as follows:*

Chapter 272 of the General Laws is hereby amended by inserting after section 85A the following section:-

Section 85B. (a) A physically impaired person who uses an assistance animal or the owner of the assistance animal, may bring an action for economic and non-economic damages against a person who steals or attacks the assistance animal. The action authorized by this subsection may be brought by the physically impaired person or owner notwithstanding that the assistance animal was in the custody or under the supervision of another person when the theft or attack occurred. If any other non-assistance animal should attack an assistance animal, the owner of the assistance animal may seek compensation from the owner or custodian of the non-assistance animal found to have caused harm to the assistance animal.

(b) If the theft or attack of an assistance animal as described in subsection (a) results in the death of the animal or the animal is not returned or if injuries sustained prevent the assistance animal from returning to service, the measure of economic damages shall include, but are not limited to, the veterinary medical expenses and the replacement cost of an equally trained assistance animal, without any differentiation for the age or the experience of the animal.

(c) A cause of action shall not arise under this section if the physically impaired individual, owner or the individual having custody or supervision of the assistance animal was engaged in the commission of a crime at the time of injury sustained by the assistance animal.

Approved May 20, 2004.

**Chapter 105. AN ACT RELATIVE TO PARKING FINES IN THE CITY OF HAVERHILL.**

*Be it enacted, etc., as follows:*

**SECTION 1.** Notwithstanding section 20A½ of chapter 90 of the General Laws or any other general or special law to the contrary, the city of Haverhill may establish by ordinance, fines for parking violations. The fines shall not exceed \$25 if paid within 21 days; not more than \$35 if paid after 21 days but before the parking clerk reports the violation to the registrar of motor vehicles; and not more than \$50 after the violation has been reported to the registrar.

**SECTION 2.** This act shall take effect upon its passage.

Approved May 20, 2004.

---

**Chapter 106. AN ACT RELATIVE TO THE TAXATION OF CERTAIN  
PROPERTY IN THE TOWN OF BELMONT.**

*Be it enacted, etc., as follows:*

**SECTION 1.** Notwithstanding any general or special law to the contrary, the taxation of the real property described within a certain Memorandum of Agreement entered into by and between the town of Belmont and AP Cambridge Partners II, LLC, dated May 28, 2002, and also described within a Supplemental Agreement by and between the same parties, dated May 28, 2002 shall be governed by that Memorandum of Agreement and that Supplemental Agreement.

**SECTION 2.** This act shall take effect upon its passage.

Approved May 20, 2004.

**Chapter 107. AN ACT ESTABLISHING A SICK LEAVE BANK FOR SHEILA  
MAHAN, AN EMPLOYEE OF THE TRIAL COURT.**

*Whereas,* The deferred operation of this act would tend to defeat its purpose, which is to establish forthwith a sick leave bank for a certain employee of the trial court, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

*Be it enacted, etc., as follows:*

Notwithstanding any general or special law, rule or regulation to the contrary, the trial court shall establish a sick leave bank for Sheila Mahan, an employee of the trial court. Any employee of the trial court may voluntarily contribute 1 or more sick, personal or vacation days to the sick leave bank for use by Sheila Mahan. Whenever Sheila Mahan terminates employment with the trial court or requests to dissolve the sick leave bank, the balance of sick leave shall be transferred to the trial court paid leave bank.

*The foregoing was laid before the Governor on the Tenth day of May, 2004 and after ten days had the force of law as prescribed by the Constitution as it was not returned by him to the branch in which it originated with his objections thereto within that time.*

**Chapter 108. AN ACT RELATIVE TO ADJUDICATORY HEARINGS OF THE  
BOARD OF REGISTRATION IN MEDICINE.**

*Be it enacted, etc., as follows:*

Section 5 of chapter 112 of the General Laws, as appearing in the 2002 Official Edition, is hereby amended by adding the following 3 paragraphs:-

---

**Chap. 108**

Notwithstanding section 11A of chapter 30A, the victim or his representative shall be entitled to attend all meetings of the board convened for the purpose of making a decision required in an adjudicatory proceeding, or for the purpose of reviewing a proposed consent order presented by the parties, concerning that victim's alleged injuries, at which the licensee or board complaint counsel are present. The victim or his representative shall be further entitled to have counsel of his own choosing present at the meeting for the purpose of advisement. The counsel shall not be permitted to participate actively in the proceeding. This paragraph shall not entitle an individual to the appointment of public or private counsel at the expense of the commonwealth.

Upon final consideration of a disciplinary matter before the board, and before the board's vote on final disposition, the board shall provide the victim or his representative an opportunity to be heard through an oral or written victim impact statement, at the victim's or his representative's option, about the impact of the injury on the victim and his family and on a recommended sanction. For purposes of this paragraph and the preceding paragraph, representatives of the victim shall include his family members and such other affected parties as might be so designated by the board's complaint counsel upon request.

If the respondent physician is present for any portion of the board's meeting upon the final consideration of a disciplinary matter, the victim or his representative shall have the opportunity to make an oral victim impact statement in the presence of the physician. If the respondent physician is absent from the board's meeting upon the final consideration of a disciplinary matter for a reason acknowledged by the board to be legitimate, the victim's or his representative's impact statement shall be communicated to the defendant physician in writing and the physician shall certify to the board that he has received and read it. The board shall make all reasonable efforts to ensure that the victim has the opportunity to make any oral impact statement in the presence of the physician.

Approved May 21, 2004.

**Chapter 109. AN ACT RELATIVE TO THE TERMS OF CERTAIN BONDS TO BE ISSUED BY THE COMMONWEALTH.**

*Whereas*, The deferred operation of this act would tend to defeat its purpose, which is forthwith to facilitate the issuance of bonds to carry out the purposes of certain acts passed by the general court, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

*Be it enacted, etc., as follows:*

Chapter 2 of the acts of 1998 is hereby amended by striking out section 1 and inserting in place thereof the following section:-

---

## **Chap. 109**

Section 1. Notwithstanding any law to the contrary, the bonds which the state treasurer is authorized to issue under section 11 of chapter 152 of the acts of 1997, as most recently a section 524 of chapter 26 of the acts of 2003, shall be issued for a term not to exceed 30 years. All such bonds shall be payable by June 30, 2038, as recommended by the governor in a message to the general court dated October 27, 2003, in pursuance of Section 3 of Article LXII of the Amendments to the Constitution.

Approved May 21, 2004.

### **Chapter 110. AN ACT EXEMPTING MEMBERS OF THE POLICE FORCE OF THE TOWN OF HOPEDALE FROM THE CIVIL SERVICE LAW.**

*Be it enacted, etc., as follows:*

**SECTION 1.** Chapter 262 of the acts of 1984 is hereby amended by striking out section 1, as amended by section 1 of chapter 156 of the acts of 2000, and inserting in place thereof the following 2 sections:-

Section 1. The positions of regular or permanent members of the fire department of the town of Hopedale shall be subject to chapter 31 of the General Laws and the tenure of any incumbent thereof shall be unlimited, subject to said chapter 31.

Section 1A. The positions of regular or permanent members of the police force including intermittent reserve officers and the chief of police of the town of Hopedale shall be exempt from chapter 31 of the General Laws.

**SECTION 2.** Section 1A of said chapter 262, inserted by section 1 of this act, shall not impair the civil service status of the persons serving as employees of the police force of the town of Hopedale on the effective date of this act.

**SECTION 3.** This act shall take effect upon its passage.

Approved May 25, 2004.

### **Chapter 111. AN ACT RELATIVE TO THE USE OF RETIRED POLICE OFFICERS BY THE TOWN OF GRAFTON.**

*Be it enacted, etc., as follows:*

**SECTION 1.** Notwithstanding any general or special law to the contrary, the town of Grafton may appoint and use retired town of Grafton police officers to perform paid police details. The police officers so appointed or used shall be under the mandatory retirement age for police officers in chapter 32 of the General Laws.

---

**Chap. 111**

**SECTION 2.** Appointments made under section 1 shall be exempt from chapter 31 of the General Laws.

**SECTION 3.** This act shall take effect upon its passage.

Approved May 27, 2004.

**Chapter 112. AN ACT AUTHORIZING THE TOWN OF MAYNARD TO GRANT AN EASEMENT OVER CERTAIN CONSERVATION LAND.**

*Be it enacted, etc., as follows:*

**SECTION 1.** The conservation commission of the town of Maynard may allow the department of public works of the town to construct and maintain a 15-foot-wide water main on conservation land as shown on Assessor's Map 5, Parcel 4 and referenced in a deed in the South Middlesex registry of deeds, Book 23826, Page 176. The conservation commission may require appropriate mitigation to return the conservation land to its condition before the construction.

**SECTION 2.** This act shall take effect upon its passage.

Approved May 27, 2004.

**Chapter 113. AN ACT AUTHORIZING THE TOWN OF LUNENBURG TO ESTABLISH A CAPITAL IMPROVEMENT TRUST FUND AND A BOND AND NOTE PROCEEDS INVESTMENT FUND.**

*Be it enacted, etc., as follows:*

**SECTION 1.** Notwithstanding any general or special law to the contrary, the town of Lunenburg may establish and maintain a special account known as the Capital Improvement Trust Fund, and may raise and appropriate money for the fund.

**SECTION 2.** The town of Lunenburg may appropriate to the fund by majority vote at an annual or special town meeting in any year any amount not to exceed 10 per cent of the amount raised in the preceding year by taxation of real estate and tangible personal property. The aggregate amount of the fund at any time shall not exceed 10 per cent of the equalized valuation of the town as defined in section 1 of chapter 44 of the General Laws.

**SECTION 3.** The fund shall be maintained by the town of Lunenburg as a separate account. The treasurer of the town shall be the custodian of the fund and may invest the funds in such separate account in the manner authorized by section 55 and 55A of chapter 44 of the General Laws. Any interest earned on the fund shall be credited to and become part of the separate account.

**SECTION 4.** The town of Lunenburg may appropriate by majority vote at any annual or special town meeting any principal and interest within the fund for any capital purchase or principal debt payment for any capital purchase. Capital purchase is defined as any item with a life expectancy of more than 5 years.

**SECTION 5.** Notwithstanding section 53 of chapter 44 of the General Laws or any other general or special law to the contrary, the board of selectmen of the town of Lunenburg may establish a special fund or funds in the town treasury into which shall be deposited income derived from the investment of the proceeds of all notes and bonds issued for any capital building project and funded through a proposition 2 1/2 debt exclusion for the renovation, reconstruction, construction and original equipping of the town's buildings. The town treasurer shall be the custodian of these monies and shall make an accounting of the funds to the board of selectmen. Except as provided for in section 6, any amount in such special fund shall be applied solely to the payment of capital costs or debt service for the building project that the money was borrowed for and no amount shall be spent on such projects in excess of the amount appropriated therefore without an additional appropriation by town meeting and upon authorization by the town treasurer.

**SECTION 6.** If, upon declaration of the town department or committee responsible for oversight of a project referenced in this act that the project is completed, there remains a balance in the special fund attributable to that project, that balance shall be transferred to the General Fund of the town.

**SECTION 7.** This act shall take effect upon its passage.

Approved May 27, 2004.

**Chapter 114. AN ACT AUTHORIZING A TRANSFER FROM THE UNEMPLOYMENT COMPENSATION FUND IN THE TOWN OF GILL.**

*Be it enacted, etc., as follows:*

**SECTION 1.** Notwithstanding section 5E of chapter 40 of the General Laws, the selectboard of the town of Gill may transfer a sum of money from the Unemployment Compensation Fund to police of wages for the purpose of supplementing that account in an effort to retain the current level of police protection.

**SECTION 2.** This act shall take effect upon its passage.

Approved May 27, 2004.

---

**Chapter 115. AN ACT ESTABLISHING A SICK LEAVE BANK FOR A CERTAIN EMPLOYEE OF THE DEPARTMENT OF MENTAL RETARDATION.**

*Whereas*, The deferred operation of this act would tend to defeat its purpose, which is forthwith to establish a sick leave bank for a certain employee, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

*Be it enacted, etc., as follows:*

Notwithstanding any general or special law, rule or regulation to the contrary, the department of mental retardation shall establish a sick leave bank for Sally Lamarre, an employee of the department. Any employee of the department may voluntarily contribute 1 or more sick, personal or vacation days to the sick leave bank for use by Sally Lamarre. Whenever Sally Lamarre terminates employment with the department or requests to dissolve the sick leave bank, the balance of sick leave shall be transferred to the extended illness leave bank.

Approved May 27, 2004.

**Chapter 116. AN ACT RELATIVE TO THE DEFINITION OF A VETERAN.**

*Be it enacted, etc., as follows:*

**SECTION 1.** Clause Forty-third of section 7 of chapter 4 of the General Laws, as appearing in the 2002 Official Edition, is hereby amended by striking out the definition of "Veteran" and inserting in place thereof the following definition:-

"Veteran" shall mean (1) any person, (a) whose last discharge or release from his wartime service as defined herein, was under honorable conditions and who (b) served in the army, navy, marine corps, coast guard, or air force of the United States, or on full time national guard duty under Titles 10 or 32 of the United States Code or under sections 38, 40 and 41 of chapter 33 for not less than 90 days active service, at least 1 day of which was for wartime service; provided, however, that any person who so served in wartime and was awarded a service-connected disability or a Purple Heart, or who died in such service under conditions other than dishonorable, shall be deemed to be a veteran notwithstanding his failure to complete 90 days of active service; (2) a member of the American Merchant Marine who served in armed conflict between December 7, 1941 and December 31, 1946, and who has received honorable discharges from the United States Coast Guard, Army, or Navy; (3) any person (a) whose last discharge from active service was under honorable conditions, and who (b) served in the army, navy, marine corps, coast guard, or air force of the United States for not less than 180 days active service; provided, however, that any person who so served and was awarded a service-connected disability or who died in such

---

## Chap. 116

service under conditions other than dishonorable, shall be deemed to be a veteran notwithstanding his failure to complete 180 days of active service.

**SECTION 2.** Notwithstanding any general or special law to the contrary, no benefits provided to a veteran pursuant to chapter 115 of the General Laws or any other benefits as provided to the veteran by the commonwealth shall be reduced or extinguished in order to effectuate this act.

Approved May 28, 2004.

## **Chapter 117. AN ACT RELATIVE TO THE DESTRUCTION, DEFACEMENT OR REMOVAL OF VETERANS' COMMEMORATIVE FLAG HOLDERS.**

*Be it enacted, etc., as follows:*

Section 73 of chapter 272 of the General Laws, as appearing in the 2002 Official Edition, is hereby amended by striking out, in line 3, the words "plaque or flag" and inserting in place thereof the following words:- plaque, veteran's flag holder that commemorates a particular war, conflict or period of service or flag.

Approved May 28, 2004.

## **Chapter 118. AN ACT RELATIVE TO THE BOUNDARY LINE BETWEEN THE TOWNS OF GROTON AND PEPPERELL.**

*Be it enacted, etc., as follows:*

**SECTION 1.** Chapter 383 of the acts of 1991 is hereby amended by striking out section 1 and inserting in place thereof the following section:-

Section 1. The following described lines shall hereafter comprise certain portions of the boundary line between the town of Groton and the town of Pepperell:

Beginning at a witness mark (WM1), for the corner GP1 at the center of the Nashua River; a stone bound engraved with the letter "G" and the letter "P" on opposing faces, a distance of about 87 feet easterly of the center of the Nashua River, said witness mark having coordinates X = 635440.6773 feet, Y = 3063644.7752;

Thence along the existing boundary line between Groton and Pepperell N 73°-31'-26" E a distance of 2082.98 feet to a point on the town line at Longley Road/Groton Street, marked by a stone bound engraved with the letter "G" and "P 1857" on opposing faces, having coordinates X = 637438.1201, Y = 3064235.5437;

Thence continuing N 73°-31'-26" E a distance of 4066.51 feet to the corner GP(a) marked by a stone bound engraved with the letter "G" and the letter "P" on opposing faces, having coordinates X = 641337.6453, Y = 3065388.8765;

Thence S 23°-13'-40" W a distance of 330.03 feet to the corner GP(b) marked by a stone bound engraved with the letter "G" and the letter "P" on opposing faces, having coordinates X = 641207.4873, Y = 3065085.6021;

Thence N 70°-13'-41" E a distance of 1211.56 feet to the corner GP(c) marked by a stone bound engraved with the letter "G" and the letter "P" on opposing faces, having coordinates X = 642347.6226, Y = 3065495.4432;

Thence N 68°-50'-38" W a distance of 301.77 feet to the corner GP(d) marked by a stone bound engraved with the letter "G" and the letter "P" on opposing faces having coordinates X = 642066.1947, Y = 3065604.3540;

Thence along the existing boundary line between Groton and Pepperell N 73°-31'-26" E a distance of 3213.31 feet to a stone bound engraved with the letter "G" and the letter "P" on opposing faces, having coordinates X = 645147.5600, Y = 3066515.7059; located at Yvonne Drive, a public way within the Town of Pepperell;

Thence continuing N 73°-31'-26" E a distance of 1075.87 feet to the Dunstable-Groton-Pepperell town corner marked by a stone bound having the letter "D", the letter "G", and the letter "P" engraved on adjacent faces, having coordinates X = 646179.2520, Y = 3066820.8416.

Coordinates used in this act are based on the Massachusetts Coordinate System, North American Datum of 1983, Mainland Zone as described in section 8 to 13, inclusive, of chapter 97 of the General Laws.

**SECTION 2.** This act shall take effect upon its passage.

Approved June 3, 2004.

## **Chapter 119. AN ACT RELATIVE TO THE JACOB SEARS MEMORIAL LIBRARY.**

*Be it enacted, etc., as follows:*

**SECTION 1.** Chapter 254 of the acts of 1908 is hereby amended by striking out section 2 and inserting in place thereof the following section:-

Section 2. The 3 trustees, all of whom shall be residents of what is commonly known as Quivet Neck, in the town of Dennis, shall be elected by a vote of the residents of Quivet Neck. Each trustee shall be elected for a 3-year term. The terms of office shall be staggered so that 1 trustee's term expires each year. This system of the terms of trustee shall commence at the next annual meeting of the corporation after the effective date of this act. At that meeting, the position of the longest serving trustee shall be subject to election. Then, at the next 2 annual meetings the positions of the 2 remaining trustees shall be subject to election, in sequence, according to their length of service. In the case of a vacancy in an unexpired term, the term shall be filled by election at the next annual meeting or at a specially convened general meeting, for the number of years then remaining in that term.

---

**Chap. 119**

The first justice of the probate and family court for Barnstable county may, after notice and a public hearing, remove any of the trustees for cause.

**SECTION 2.** This act shall take effect upon its passage.

Approved June 3, 2004.

**Chapter 120. AN ACT AUTHORIZING PRONOUNCEMENT OF DEATH BY NURSE PRACTITIONERS.**

*Be it enacted, etc., as follows:*

**SECTION 1.** Section 9 of chapter 46 of the General Laws, as appearing in the 2002 Official Edition, is hereby amended by adding the following paragraph:-

A nurse practitioner, after the death of a person who was a patient under the care of such nurse practitioner, may declare the person dead. Before making a pronouncement of death, a nurse practitioner shall make a reasonable effort to contact the attending physician or medical examiner. A pronouncement of death under this paragraph shall be made in writing on a form approved by the commissioner of public health and subscribed under the pains and penalties of perjury. A physician or the medical examiner shall be notified forthwith of the exact location to which the decedent has been removed.

**SECTION 2.** Section 45 of chapter 114 of the General Laws, as so appearing, is hereby amended by inserting after the word "nurse", in line 27, the following words:- , a nurse practitioner.

Approved June 3, 2004.

**Chapter 121. AN ACT RELATIVE TO THE JURISDICTION OVER PUBLIC PARKS IN THE CITY OF HOLYOKE.**

*Be it enacted, etc., as follows:*

**SECTION 1.** Section 37 of chapter 438 of the acts of 1896 is hereby amended by striking out, in lines 9 and 10, the words "except public parks" and inserting in place thereof the following words:- and the maintenance of the capital facilities in public parks.

**SECTION 2.** Section 1 of chapter 115 of the acts of 1922, as amended by section 1 of chapter 229 of the acts of 1977, is hereby further amended by striking out the last sentence and inserting in place thereof the following sentence:- Except as provided in clause (e) of section 37 of chapter 438 of the acts of 1896, the parks and recreation commission shall have control of the public playgrounds and parks with authority to acquire land in fee or otherwise,

---

**Chap. 121**

by gift, purchase, or by the right of eminent domain, or to lease the same, and to conduct and promote thereon play, sport and physical education; and for this purpose to employ teachers, supervisors and other officials as it may consider best and determine their compensation.

Approved June 3, 2004.

**Chapter 122. AN ACT RELATIVE TO THE PROCEDURES FOR MUNICIPALITIES AND DISTRICTS TO ACCEPT STATUTES.**

*Be it enacted, etc., as follows:*

**SECTION 1.** Chapter 4 of the General Laws is hereby amended by striking out section 4, as appearing in the 2002 Official Edition, and inserting in place thereof the following section:-

Section 4. Wherever a statute is to take effect upon its acceptance by a municipality or district, or is to be effective in municipalities or districts accepting its provisions, this acceptance shall be, except as otherwise provided in that statute, in a municipality, by vote of the legislative body, subject to the charter of the municipality, or, in a district, by vote of the district at a district meeting.

**SECTION 2.** Section 7 of said chapter 4, as so appearing, is hereby amended by inserting after clause Nineteenth the following clause:- Nineteenth A, "Municipality" shall mean a city or town.

Approved June 3, 2004.

**Chapter 123. AN ACT PROVIDING FOR UNIFORM REGULATORY STANDARDS FOR CERTAIN INSURANCE COMPANIES.**

*Whereas*, The deferred operation of this act would tend to defeat its purpose, which is to provide forthwith for uniform regulatory standards for certain insurance companies, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

*Be it enacted, etc., as follows:*

**SECTION 1.** Section 1 of chapter 175 of the General Laws, as appearing in the 2002 Official Edition, is hereby amended by striking out the definition of "Compensation".

**SECTION 2.** Said section 1 of said chapter 175, as so appearing, is hereby further amended by striking out the definition of "Earned premiums".

**SECTION 3.** Said section 1 of said chapter 175, as so appearing, is hereby further amended by striking out the definition of "Liability".

**SECTION 4.** Said section 1 of said chapter 175, as so appearing, is hereby further amended by striking out the definition of "Loss payments".

**SECTION 5.** Said section 1 of said chapter 175, as so appearing, is hereby further amended by striking out the definition of "Net assets" and inserting in place thereof the following definition:-

"Net assets", the assets of a company, less the total liabilities of the company, both as shown on the latest statement of financial condition prepared in accordance with section 25.

**SECTION 6.** Said section 1 of said chapter 175, as so appearing, is hereby further amended by striking out the definition of "Unearned premium" and inserting in place thereof the following definition:-

"Unearned premiums", as defined in the National Association of Insurance Commissioners Accounting Practices and Procedures Manual, unless modified by the commissioner as the commissioner considers appropriate.

**SECTION 7.** Said Chapter 175 is hereby further amended by striking out section 10, as so appearing, and inserting in place thereof the following section:-

*Section 10.* The commissioner shall determine the liability of a company other than a life company or a health maintenance organization as defined in chapter 176G, upon its contracts of insurance. The determination shall be prepared in accordance with accounting practices and procedures prescribed or allowed by the commissioner. The commissioner shall require that they be maintained and prepared in accordance with the Annual Statement Instructions and Accounting Practices and Procedures Manual adopted by the National Association of Insurance Commissioners unless further modified by the commissioner as he considers appropriate.

**SECTION 8.** Said chapter 175 is hereby further amended by striking out section 11, as so appearing, and inserting in place thereof the following section:-

Section 11. In addition to the reserve provided for in sections 9 and 10, the commissioner shall charge to each company the liabilities, and allow to the credit of each company in the account of its financial condition only the assets, as are chargeable or allowable, respectively, under accounting practices and procedures prescribed or allowed by the commissioner. Notwithstanding any general or special law to the contrary, the commissioner shall require that value of the liabilities and assets be computed in accordance with the Annual Statement Instructions and Accounting Practices and Procedures Manual adopted by the National Association of Insurance Commissioners, unless modified by the commissioner as the commissioner considers appropriate.

**SECTION 9.** Said chapter 175 is hereby further amended by striking out section 11A, as so appearing, and inserting in place thereof the following section:-

Section 11A. Investments shall be valued in accordance with the published valuation standards of the National Association of Insurance Commissioners and in accordance with accounting practices and procedures prescribed or allowed by the commissioner. The commissioner shall require that the value of the investments be computed in accordance with the Accounting Practices and Procedures Manual and the Purposes and Procedures Manual of the Securities Valuation Office of the National Association of Insurance Commissioners, unless modified by the commissioner as the commissioner considers appropriate.

**SECTION 10.** Said chapter 175 is hereby further amended by striking out section 12, as so appearing, and inserting in place thereof the following section:-

Section 12. The commissioner shall each year compute the reserve required of liability companies for outstanding losses under insurance against loss or damage from accident to or injuries suffered by an employee or other person, for which the insured is liable, in accordance with accounting practices and procedures prescribed or allowed by the commissioner. The commissioner shall require that value of the reserves be computed in accordance with the Accounting Practices and Procedures Manual of the National Association of Insurance Commissioners, unless modified by the commissioner as the commissioner considers appropriate.

**SECTION 11.** Section 12A of said chapter 175 is hereby repealed.

**SECTION 12.** The first paragraph of paragraph (C) of subsection (2) of section 20A of said chapter 175, as appearing in the 2002 Official Edition, is hereby amended by adding the following sentence:- Any such letter of credit shall have a term of at least 1 year and shall contain a clause which prevents the expiration of the letter of credit without notice from the issuer not less than 30 days notice before the end of the term.

**SECTION 13.** Said subsection (2) of said section 20A of said chapter 175, as so appearing, is hereby further amended by striking out paragraph (D).

**SECTION 14.** Section 64 of said chapter 175, as so appearing, is hereby amended by striking out, in lines 52 to 54, inclusive, the words "deemed to be the book value at the time of election or the appraised value at such time, whichever is less" and inserting in place thereof the following words:- valued in accordance with the National Association of Insurance Commissioners Accounting Practices and Procedures Manual, unless modified by the commissioner as the commissioner considers appropriate.

**SECTION 15.** Section 66B of said chapter 175, as so appearing, is hereby amended by striking out the fifth, sixth and seventh sentences and inserting in place thereof the following sentence:- The property shall be valued in accordance with the National Association of Insurance Commissioners Accounting Practices and Procedures Manual, unless modified by the commissioner as the commissioner considers appropriate.

**SECTION 16.** The second paragraph of section 94I of said chapter 175, as so appearing, is hereby amended by striking out the second and third sentences and inserting in place thereof the following sentence:- The annual statement shall be prepared in accordance with section 25.

---

**Chap. 123**

**SECTION 17.** This act shall take effect as of January 1, 2001.

Approved June 3, 2004.

**Chapter 124. AN ACT RELATIVE TO THE CHERRY VALLEY SEWER DISTRICT 2000-2001 PROJECT.**

*Be it enacted, etc., as follows:*

Notwithstanding section 13B of chapter 80 of the General Laws or any other general or special law to the contrary, the Cherry Valley sewer commission may enter into deferral and recovery agreements under said section 13B of said chapter 80 with any owner of real property assessed any betterment in connection with the Cherry Valley Sewer District 2000-2001 Project, if the application for the deferral and recovery agreement is made by the property owner within 6 months after the effective date of this act.

Approved June 10, 2004.

**Chapter 125. AN ACT PROTECTING THE WAGES AND TIPS OF CERTAIN EMPLOYEES.**

*Be it enacted, etc., as follows:*

**SECTION 1.** Section 27B of chapter 149 of the General Laws, as appearing in the 2002 Official Edition, is hereby amended by striking out, in line 7, the words "furnish to the commissioner" and inserting in place thereof the following words:- promptly furnish to the attorney general or his representative.

**SECTION 2.** Said section 27B of said chapter 149, as so appearing, is hereby further amended by inserting after the word "authority", in line 17, the following word:- directly.

**SECTION 3.** Said section 27B of said chapter 149, as so appearing, is hereby further amended by striking out, in line 22, the words "commissioner of labor and industries" and inserting in place thereof the following words:- awarding authority directly.

**SECTION 4.** Said section 27B of said chapter 149, as so appearing, is hereby further amended by striking out the fourth paragraph and inserting in place thereof the following paragraph:-

The above-mentioned copies of payroll records and statements of compliance shall be available for inspection by any interested party filing a written request to the awarding authority for such inspection and copying.

**SECTION 5.** Section 27C of said chapter 149, as so appearing, is hereby amended by striking out, in lines 27, 34 and 83, the words "or 27H" and inserting in place thereof, in

each instance, the following words:- , 27H or 148B.

**SECTION 6.** Said section 27C of said chapter 149, as so appearing, is hereby further amended by striking out, in line 44, the word "send" and inserting in place thereof the following word:- publish.

**SECTION 7.** Said section 27C of said chapter 149, as so appearing, is hereby further amended by striking out, in lines 91 and 94, the word "such" and inserting in place thereof, in each instance, the following word:- a.

**SECTION 8.** Said section 27C of said chapter 149, as so appearing, is hereby further amended by inserting after the word "order", in line 103, the following words:- or a final court order, whichever is later.

**SECTION 9.** Said section 27C of said chapter 149, as so appearing, is hereby further amended by inserting after the word "affirm", in lines 113 and 114, the following words:- or if the aggrieved person demonstrates by a preponderance of evidence that the citation or order was erroneously issued.

**SECTION 10.** Said section 27C of said chapter 149, as so appearing, is hereby further amended by inserting after the word "complaint", in line 131, the following words:- or seek indictment.

**SECTION 11.** Said section 27C of said chapter 149, as so appearing, is hereby further amended by inserting after the word "amount", in line 136, the following words:- and any restitution order.

**SECTION 12.** Section 150 of said chapter 149, as so appearing, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:- The attorney general may make complaint or seek indictment against any person for a violation of section 148.

**SECTION 13.** Said chapter 149 is hereby further amended by striking out section 152A, as so appearing, and inserting in place thereof the following section:-

Section 152A. (a) As used in this section, the following words, unless a different meaning is required by the context or is specifically prescribed, shall have the following meanings:-

"Wait staff employee", a person, including a waiter, waitress, bus person, and counter staff, who: (1) serves beverages or prepared food directly to patrons, or who clears patrons' tables; (2) works in a restaurant, banquet facility, or other place where prepared food or beverages are served; and (3) who has no managerial responsibility.

"Service employee", a person who works in an occupation in which employees customarily receive tips or gratuities, and who provides service directly to customers or consumers, but who works in an occupation other than in food or beverage service, and who has no managerial responsibility.

"Service bartender", a person who prepares alcoholic or nonalcoholic beverages for patrons to be served by another employee, such as a wait staff employee.

"Employer", any person or entity having employees in its service, including an owner or officer of an establishment employing wait staff employees, service employees, or service bartenders, or any person whose primary responsibility is the management or supervision of wait staff employees, service employees, or service bartenders.

"Patron", any person who is served by a wait staff employee or service employee at any place where such employees perform work, including, but not limited to, any restaurant, banquet facility or other place at which prepared food or beverage is served, or any person who pays a tip or service charge to any wait staff employee, service employee, or service bartender.

"Service charge", a fee charged by an employer to a patron in lieu of a tip to any wait staff employee, service employee, or service bartender, including any fee designated as a service charge, tip, gratuity, or a fee that a patron or other consumer would reasonably expect to be given to a wait staff employee, service employee, or service bartender in lieu of, or in addition to, a tip.

"Tip", a sum of money, including any amount designated by a credit card patron, a gift or a gratuity, given as an acknowledgment of any service performed by a wait staff employee, service employee, or service bartender.

(b) No employer or other person shall demand, request or accept from any wait staff employee, service employee, or service bartender any payment or deduction from a tip or service charge given to such wait staff employee, service employee, or service bartender by a patron. No such employer or other person shall retain or distribute in a manner inconsistent with this section any tip or service charge given directly to the employer or person.

(c) No employer or person shall cause, require or permit any wait staff employee, service employee, or service bartender to participate in a tip pool through which such employee remits any wage, tip or service charge, or any portion thereof, for distribution to any person who is not a wait staff employee, service employee, or service bartender. An employer may administer a valid tip pool and may keep a record of the amounts received for bookkeeping or tax reporting purposes.

(d) If an employer or person submits a bill, invoice or charge to a patron or other person that imposes a service charge or tip, the total proceeds of that service charge or tip shall be remitted only to the wait staff employees, service employees, or service bartenders in proportion to the service provided by those employees.

Nothing in this section shall prohibit an employer from imposing on a patron any house or administrative fee in addition to or instead of a service charge or tip, if the employer provides a designation or written description of that house or administrative fee, which informs the patron that the fee does not represent a tip or service charge for wait staff employees, service employees, or service bartenders.

(e) Any service charge or tip remitted by a patron or person to an employer shall be paid to the wait staff employee, service employee, or service bartender by the end of the same business day, and in no case later than the time set forth for timely payment of wages under section 148.

(f) Whoever violates this section shall be subject to all of the civil and criminal penalties and remedies set forth in section 27C. Any person or employer who violates this section shall make restitution for any tips accepted, distributed or retained in violation of this section, together with interest thereon at the rate of 12 per cent per annum. An employee claiming to be aggrieved by a violation of this section may proceed pursuant to the second paragraph of section 150. The attorney general or, under said section 150, an employee may bring an action under this section within 3 years of any violation of this section.

(g) No employer or person shall by a special contract with an employee or by any other means exempt itself from this section.

**SECTION 14.** Section 159A of said chapter 149 is hereby repealed.

**SECTION 15.** Section 15 of chapter 151 of the General Laws, as so appearing, is hereby amended by striking out, in lines 11 and 12, the words "they shall have the right to make a transcript thereof" and inserting in place thereof the following words:- the employer shall furnish immediately to the attorney general, commissioner or representative, upon request, a copy of any of these records.

**SECTION 16.** Said section 15 of said chapter 151, as so appearing, is hereby further amended by adding the following sentence:- An employer shall allow an employee at reasonable times and places to inspect the records kept under this section and pertaining to that employee.

**SECTION 17.** Section 19 of said chapter 151, as so appearing, is hereby amended by striking out subsection (3) and inserting in place thereof the following subsection:-

(3) An employer or the officer or agent of a corporation who fails to keep the true and accurate records required under this chapter or to furnish a record to the attorney general, the commissioner, or an authorized representative of the attorney general or commissioner upon request, or who falsifies a record, or who fails to allow an employee to inspect a record under section 15, or who fails to comply with a requirement of the commissioner under the last sentence of section 16, or who hinders or delays the attorney general, commissioner or representative in the performance of his duties, or who refuses to admit, or locks out, the attorney general, commissioner, or representative from a place of employment, other than a place of employment of a person engaged in domestic service in the home of the employer, which he is authorized to inspect, shall have violated this section and shall be punished or shall be subject to a civil citation or order as provided in section 27C of chapter 149, and each day of the failure to keep a record or to furnish to the attorney general, commissioner or representative a record or other information required for the proper enforcement of this chapter shall constitute a separate offense.

**SECTION 18.** Subsection (5) of said section 19 of said chapter 151, as so appearing, is hereby amended by adding the following sentence:- An employer who discharges or in any other manner penalizes or discriminates against an employee because the employee has made a complaint to the attorney general or any other person, or assists the attorney general in an investigation under this chapter, or has instituted, or caused to be instituted a proceeding under or related to this chapter, or has testified or is about to testify in the proceeding, or has

---

## Chap. 125

taken any other action to seek rights under this chapter, shall have violated this section and shall be punished or shall be subject to a civil citation or order as provided in section 27C.

Approved June 10, 2004.

## Chapter 126. AN ACT RELATIVE TO MOTORCYCLE SAFETY.

*Be it enacted, etc., as follows:*

**SECTION 1.** Section 13D of chapter 71 of the General Laws, as appearing in the 2002 Official Edition, is hereby amended by adding the following paragraph:-

A driver education course shall include a motorcycle awareness program module, as approved by the Motorcycle Safety Foundation, to ensure that new operators of motor vehicles have some knowledge and awareness of motorcycles on roadways for the safety of motorcyclists. Two dollars from each motorcycle registration fee paid under section 34 of chapter 90 shall be used to fund the cost of the required materials for the motorcycle awareness program module required by this section.

**SECTION 2.** Section 32G of chapter 90 of the General Laws, as so appearing, is hereby amended by adding the following paragraph:-

The licensee shall include in the course of instruction a motorcycle awareness program module, as approved by the Motorcycle Safety Foundation, to ensure that new operators of motor vehicles have some knowledge and awareness of motorcycles on roadways for the safety of motorcyclists. Two dollars from each motorcycle registration fee paid under section 34 shall fund the cost of the required materials for the motorcycle awareness program module required by this section.

**SECTION 3.** Section 34 of said chapter 90, as appearing in the 2002 Official Edition, is hereby amended by striking out the second paragraph and inserting in place thereof the following paragraph:-

Notwithstanding the first paragraph, \$2 from each motorcycle registration fee shall be paid by the registrar or by the person collecting the registration fee into the General Fund and shall be appropriated solely for the purpose of promoting and advancing motorcycle safety.

Approved June 10, 2004.

## Chapter 127. AN ACT AUTHORIZING THE TOWN OF BRAINTREE TO TRANSFER A CERTAIN PARCEL OF TOWN PARK LAND.

*Be it enacted, etc., as follows:*

---

**Chap. 127**

The board of parks and playgrounds of the town of Braintree may transfer the care, custody and control of certain park land located in the town to the board of selectmen to be used for highway purposes. The land is shown on a plan entitled "Land Taking for Proposed Relocation of Liberty Street Through Perkins Park", dated September 11, 2002.

Approved June 16, 2004.

**Chapter 128. AN ACT AUTHORIZING THE TOWN OF SOUTHWICK TO GRANT AN EASEMENT TO CAROL K. COLLINS.**

*Be it enacted, etc., as follows:*

The town of Southwick, acting by and through its water commissioners and board of selectmen, may grant a perpetual easement of a certain parcel of land located in the town to Carol K. Collins. The easement is shown on a plan prepared by D. L. Bean, Inc., dated April 9, 2002 which is on file with the town.

Approved June 16, 2004.

**Chapter 129. AN ACT VALIDATING THE ACTIONS TAKEN AT THE SPECIAL TOWN ELECTION HELD BY THE TOWN OF NEW SALEM.**

*Be it enacted, etc., as follows:*

**SECTION 1.** Notwithstanding any general or special law or by-law to the contrary, all acts and proceedings taken by the town of New Salem at the special town election held on December 2, 2003, and all actions taken pursuant thereto are hereby ratified, validated and confirmed, to the same extent as if the warrant for that election had been posted in full compliance with law.

**SECTION 2.** This act shall take effect upon its passage.

Approved June 16, 2004.

**Chapter 130. AN ACT AUTHORIZING CERTAIN UTILITY RIGHTS-OF-WAY IN THE TOWN OF TEWKSBURY.**

*Be it enacted, etc., as follows:*

**SECTION 1.** The town of Tewksbury may lay, construct, maintain, operate, repair, change the size of, remove and replace a utility pipeline over 2 parcels of land, in which the

---

**Chap. 130**

town of Tewksbury through its conservation commission has an interest, by instruments recorded at Middlesex north district registry of deeds, Book 3849, Page 149 also shown as Lot 77 on Assessor's Map 99 off Mill Street and Middlesex north registry of deeds, Book 4182, Page 210 also shown as Lot 34 on Assessor's Map 111, on Bradford road, consisting of a proposed permanent right-of-way 20 feet more or less in width, together with temporary work space for construction purposes 10 feet more or less in width on either side of the proposed permanent easement immediately adjacent to the area of the proposed permanent easement. This temporary work space shall expire upon completion of construction or within 2 years from commencement of construction, whichever first occurs.

**SECTION 2.** This act shall take effect upon its passage.

Approved June 16, 2004.

**Chapter 131. AN ACT AUTHORIZING THE TOWN OF HARVARD TO CONVEY CERTAIN PARK LAND.**

*Be it enacted, etc., as follows:*

**SECTION 1.** Notwithstanding any general or special law to the contrary, the town of Harvard may sell, convey or otherwise dispose of, to the owners of the parcels of land abutting thereon for residential purposes, the fee or any lesser interest in all or any part of the areas of land comprising part of the Harvard town common shown as "Easement #1", "Easement #8", "Easement #9", "Easement #10" and "Easement #11" on a plan of land entitled "Plan of Easements - Harvard Common - Harvard, Massachusetts", dated December 1992, prepared by David E. Ross Associates, Inc., which plan is recorded with the Worcester county registry of deeds in Plan Book 680, Plan 2.

**SECTION 2.** This act shall take effect upon its passage.

Approved June 16, 2004.

**Chapter 132. AN ACT AUTHORIZING THE TOWN OF SANDWICH TO GRANT CONSERVATION RESTRICTIONS ON CERTAIN PARCELS OF LAND IN THE TOWN OF SANDWICH.**

*Be it enacted, etc., as follows:*

**SECTION 1.** The town of Sandwich may convey an easement or lesser interest through a conservation restriction pursuant to sections 31, 32, and 33 of chapter 184 of the General Laws in 2 certain parcels of land acquired for conservation purposes to the common-

wealth for the purpose of the protection of coastal wetlands, upland and wetland wildlife habitat, and open space for recreation. The parcels are identified as follows:-

All or any portion of the land, including land under water, in the town of Sandwich known as Scorton Neck Conservation Lands, described in a deed recorded in the Barnstable county registry of deeds in Book 1610, Page 113 and Book 1678, Page 139; and

All or any portion of the lands, including lands under water, in the town of Sandwich, described in deeds recorded in the Barnstable county registry of deeds in Book 1356, Page 796; Book 1478, Page 064; and Book 7069, Page 099.

**SECTION 2.** This act shall take effect upon its passage.

Approved June 16, 2004.

**Chapter 133. AN ACT PROVIDING THAT EMIL DEFUSCO MAY CONTINUE EMPLOYMENT WITH THE POLICE DEPARTMENT OF THE CITY OF LAWRENCE.**

*Be it enacted, etc., as follows:*

**SECTION 1.** Notwithstanding any general or special law to the contrary, Emil DeFusco, a deputy chief in the police department of the city of Lawrence, who was retired by the city of Lawrence Retirement Board pursuant to chapter 32 of the General Laws, may be reinstated to that office or position until he reaches age 70, if he is mentally and physically capable of performing the duties of his office or position. He shall hold the office or position subject to the approval of the appointing authority. The appointing authority may, at its own expense, require Emil DeFusco to be examined by the retirement board of the city of Lawrence to determine his capability for continued service.

Deductions shall continue to be made from the regular compensation of Emil DeFusco under said chapter 32 for any service performed between age 65 and 70, and upon retirement Emil DeFusco shall receive a superannuation allowance, or a veteran's pension allowance, as applicable, equal to that appropriate for his full years of creditable service. If Emil DeFusco is determined not to be capable of continuing in service pursuant to an examination by an impartial physician, as provided for in this act, he shall be retired for superannuation, and shall not be presumed by virtue of such determination to be disabled for the purposes of said chapter 32.

Emil DeFusco shall not be entitled to any benefits under section 111F of chapter 41 of the General Laws, should he become incapacitated as a result of injury while on duty, nor shall he be entitled to benefits under section 94 of chapter 32 of the General Laws upon his reinstatement as deputy chief of police for the city of Lawrence. If Emil DeFusco is no longer serving in his capacity as deputy chief, he shall not return to his civil service position as sergeant in the police department for the city of Lawrence.

---

**Chap. 133**

**SECTION 2.** This act shall take effect upon its passage.

Approved June 16, 2004.

**Chapter 134. AN ACT AUTHORIZING THE CITY OF REVERE TO REDUCE WATER AND SEWER FEE LIABILITY IN EXCHANGE FOR VOLUNTEER SERVICES BY PERSONS OVER AGE 60.**

*Be it enacted, etc., as follows:*

**SECTION 1.** (a) Notwithstanding any general or special law to the contrary, in addition to any reduction in real estate tax liability allowed pursuant to section 5K of chapter 59 of the General Laws, the mayor and city council of the city of Revere may establish a program to allow any person 60 years of age or over to volunteer to provide services to the city in exchange for a reduction of his water and sewer bill. Any such reduction shall be in addition to any exemption or abatement to which the person is otherwise entitled. No such person shall receive a rate of, or be credited with, more than the current minimum wage of the commonwealth per hour for services provided pursuant to such reduction, nor shall the reduction of the water and sewer bill exceed \$500 in a tax year.

(b) The city shall maintain a record for each taxpayer including, but not limited to, the number of hours of service and the total amount by which the water and sewer fees have been reduced, and shall provide a copy of the record to the board of assessors and the water and sewer billing department so that the actual water and sewer bill reflects the reduced rate.

(c) The city may adopt local rules and procedures for implementing this section in a manner consistent with the intent of this section.

**SECTION 2.** This act shall take effect upon its passage.

Approved June 16, 2004.

**Chapter 135. AN ACT RELATIVE TO THE SOUTH SAGAMORE WATER DISTRICT AND THE BOURNE WATER DISTRICT.**

*Be it enacted, etc., as follows:*

**SECTION 1.** Chapter 441 of the acts of 1938 is hereby amended by striking out section 1, as most recently amended by section 1 of chapter 604 of the acts of 1977, and inserting in place thereof the following section:-

Section 1. The inhabitants of the town of Bourne, liable to taxation in said town, and residing within the territory comprised within the following boundary lines, to wit:- beginning at the Cape Cod Canal at a point 6,000 feet west of the center line of the Sagamore

bridge and running southerly from the mean high water line of the canal on its southerly bank continuing in a straight line to a point on the northerly boundary of the Military Reservation, as shown on the Reservation Map-Camp Edwards, Scale 1:10,000, dated May 15, 1941, Plan 6863-578, thence turning and running westerly along the northerly line of said reservation to the westerly line of said reservation; thence turning and running southerly by the westerly line of said reservation, as shown on said map, to its point of intersection with the Falmouth town line; thence westerly by the Falmouth town line to Buzzards Bay; thence northerly by the shore line of Buzzards Bay, including all adjacent islands, as appearing on the plan hereinafter referred to as the Cape Cod canal; thence easterly along the south bank of the Cape Cod canal to the point of beginning, said territory being shown on the map of the Bourne Water District dated January, 1940, by Whitman & Howard, as revised by Newell Snow in September, 1952, and the inhabitants of the town of Bourne, liable to taxation in said town and residing within the territory comprised within the following boundary lines, to wit:- beginning at the intersection of the boundary line between the town of Bourne and the town of Sandwich with the Cape Cod canal and running westerly by the Cape Cod canal to a point 6,000 feet west of the center line of the Sagamore bridge; thence turning and running south, true meridian, from the mean high water line of the Cape Cod canal on its southerly bank a distance of 6,000 feet; thence turning and running east, true meridian, to the boundary line between the town of Bourne and the town of Sandwich; thence turning and running northeasterly by the boundary line between the town of Bourne and the town of Sandwich to the Cape Cod canal to the point of beginning, with the exception of a parcel of land shown as Lot 2 on a plan of land entitled "Plan of Division of Parcel A into Lots 1 and 2 in Sagamore, (South) Bourne" drawn by Charles W. Ehman, Jr., RLS dated October 12, 1983, shall constitute a water district and are hereby made a body corporate by the name of the Bourne Water District, hereinafter called "the district", for the purpose of supplying themselves with water for the extinguishment of fires and for domestic and other purposes, with power to establish fountains and hydrants and to relocate and discontinue the same, to regulate the use of such water and to fix and collect rates to be paid therefor, and for the purposes of assessing and raising taxes as provided in this act for the payment of such services, and for defraying the necessary expenses of carrying on the business of said district, subject to all general laws now or hereafter in force relative to such districts, except as otherwise provided in this act. The district shall have power to prosecute and defend all actions relating to its property and affairs.

**SECTION 2.** Notwithstanding section 16 of chapter 30B of the General Laws, the South Sagamore Water District, acting through its board of water commissioners, may convey by deed a certain parcel of conservation land to the Bourne Conservation Trust, in accordance with section 15B of chapter 40 of the General Laws. Said parcel of land is shown as Lot 2 on a plan of land entitled "Plan of Division of Parcel A into Lots 1 and 2 in Sagamore, (South) Bourne" drawn by Charles W. Ehman, Jr., RLS dated October 12, 1983. The parcel shall be held by the Bourne Conservation Trust solely for conservation purposes.

---

## Chap. 135

**SECTION 3.** Section 1 shall take effect on July 1, 2004, if accepted before that date at a meeting of the Bourne Water District at which persons constituting the water district, established by this act shall be entitled to vote. Upon acceptance as provided in this section, the redefined Bourne water district shall be the corporate successor to the former Bourne water district and shall succeed to all property, liabilities and contracts of the Bourne water district as previously established.

**SECTION 4.** Section 2 of this act shall take effect upon its passage.

Approved June 16, 2004.

## Chapter 136. AN ACT RELATIVE TO THE DEPARTMENT OF INSPECTIONAL SERVICES IN THE CITY OF LYNN.

*Be it enacted, etc., as follows:*

**SECTION 1.** Subsection (d) of section 1 of chapter 51 of the acts of 1999 is hereby amended by striking out clauses (2) and (3) and inserting in place thereof the following clause:-

(2) The division of building inspection and maintenance shall administer, control and include the plumbing inspector, inspector of gas fittings and gas appliances who shall be responsible for the enforcement of the state building code applicable to gas fittings and gas appliances; and the planning department which shall be responsible for all of its present functions conferred upon it by the General Laws and city ordinances.

**SECTION 2.** Clause (6) of said subsection (d) of said section 1 of said chapter 51 is hereby amended by striking out subclause (iv) and inserting in place thereof the following 2 subclauses:-

(iv) board of health

(v) planning board.

**SECTION 3.** Section 3 of said chapter 51 is hereby amended by striking out the second sentence and inserting in place thereof the following sentence:- This official may be removed as provided in section 4.

**SECTION 4.** Said chapter 51 is hereby further amended by striking out section 4 and inserting in place thereof the following section:-

*Section 4.* The mayor of the city of Lynn may pursuant to the removal procedure established in section 6-6 of the city charter remove the chief of the department of inspectional services from office. The city council may, by following the removal procedure established in subsection (d) of section 3-7 of the city charter, remove the division heads of the department from office.

**SECTION 5.** Section 6 of said chapter 51 is hereby amended by striking out the second sentence and inserting in place thereof the following sentence:- The term of office

shall be for 3 years and they shall be granted tenure upon reappointment pursuant to section 6-5 of the city charter.

**SECTION 6.** Section 8 of said chapter 51 is hereby amended by inserting after the word "for", in line 4, the following word:- just.

Approved June 16, 2004.

## **Chapter 137. AN ACT IMPROVING PUBLIC HEALTH IN THE COMMON-WEALTH.**

*Whereas*, The deferred operation of this act would tend to defeat its purpose, which is forthwith to protect the health of the employees of the commonwealth, therefore it is hereby declared to be an emergency law, necessary for immediate preservation of the public health and convenience.

*Be it enacted, etc., as follows:*

**SECTION 1.** Section 21 of chapter 270 of the General Laws is hereby repealed.

**SECTION 2.** Said chapter 270 is hereby further amended by striking out section 22, as appearing in the 2002 Official Edition, and inserting in place thereof the following section:-

Section 22. (a) As used in this section, the following words shall have the following meanings, unless the context requires otherwise:

"Business agent", an individual who has been designated by the owner or operator of any establishment to be the manager or otherwise in charge of the establishment.

"Compensation", money, gratuity, privilege, or benefit received from an employer in return for work performed or services rendered.

"Customer service area", an area of the workplace that a business invitee may access.

"Employee", an individual or person who performs a service for compensation for an employer at the employer's workplace, including a contract employee, temporary employee, and independent contractor who performs a service in the employer's workplace for more than a *de minimis* amount of time.

"Employer", an individual, person, partnership, association, corporation, trust, organization, school, college, university or other educational institution or other legal entity, whether public, quasi-public, private, or non-profit which uses the services of 1 or more employees at 1 or more workplaces, at any 1 time, including the commonwealth or its agencies, authorities or political subdivisions.

"Enclosed", a space bounded by walls, with or without windows or fenestrations, continuous from floor to ceiling and enclosed by 1 or more doors, including but not limited to an office, function room or hallway.

"Lodging home", a dwelling or part thereof which contains 1 or more rooming units in which space is let or sublet for compensation by the owner or operator to 4 or more persons. The residential portion of boarding houses, rooming houses, dormitories, and other similar dwelling places are included in this definition. Hospitals, sanitariums, jails, houses of correction, homeless shelters, and assisted living homes are not included in this definition.

"Membership association", a not-for-profit entity that has been established and operates, for a charitable, philanthropic, civic, social, benevolent, educational, religious, athletic, recreation or similar purpose, and is comprised of members who collectively belong to:

(i) a society, organization or association of a fraternal nature that operates under the lodge system, and having 1 or more affiliated chapters or branches incorporated in any state; or

(ii) a corporation organized under chapter 180 ; or

(iii) an established religious place of worship or instruction in the commonwealth whose real or personal property is exempt from taxation; or

(iv) a veterans' organization incorporated or chartered by the Congress of the United States, or otherwise, having 1 or more affiliated chapters or branches incorporated in any state.

Except for a religious place of worship or instruction, an entity shall not be a membership association for the purposes of this definition, unless individual membership is required for all members of the association for a period of not less than 90 days.

"Outdoor space", an outdoor area, open to the air at all times and cannot be enclosed by a wall or side covering.

"Public building", a building owned by the commonwealth or any political subdivision thereof, or in an enclosed indoor space occupied by a state agency or department of the commonwealth which is located in a building not owned by the commonwealth.

"Public transportation conveyance", a vehicle or vessel used in mass public transportation or in the transportation of the public, including a train, passenger bus, school bus or other vehicle used to transport pupils, taxi, passenger ferry boat, water shuttle or other equipment used in public transportation owned by, or operated under the authority of the Massachusetts Bay Transportation Authority, the Woods Hole, Martha's Vineyard & Nantucket Steamship Authority, Massachusetts Port Authority; state transportation department; or a vehicle or vessel open to the public that is owned by, or operated under the authority of a business, including tour vehicles or vessels, enclosed ski lifts or trams, passenger buses or vans regularly used to transport customers. Notwithstanding the foregoing, a private vehicle or vessel not open to the public or not used for the transportation of the public during the times of use, including a private passenger vehicle, a private charter or rental of a limousine, bus or van or the private rental of a boat or other vessel, shall not be considered a public transportation conveyance.

"Residence", the part of a structure used as a dwelling including without limitation:

a private home, townhouse, condominium, apartment, mobile home; vacation home, cabin or cottage; a residential unit in a governmental public housing facility; and the residential portions of a school, college or university dormitory or facility. A residential unit provided by an employer to an employee at a place of employment shall be considered to be a residence; if the unit is an enclosed indoor space used exclusively as a residence, and other employees, excluding family members of the employee, or the public has no right of access to the residence. For the purposes of this definition, a hotel, motel, inn, lodge, bed and breakfast or other similar public accommodation, hospital, nursing home or assisted living facility shall not be considered a residence.

"Retail tobacco store", an establishment which is not required to possess a retail food permit whose primary purpose is to sell or offer for sale to consumers, but not for resale, tobacco products and paraphernalia, in which the sale of other products is merely incidental, and in which the entry of persons under the age of 18 is prohibited at all times, and maintains a valid permit for the retail sale of tobacco products as required to be issued by the appropriate authority in the city or town where the establishment is located.

"Smoking" or "smoke", the lighting of a cigar, cigarette, pipe or other tobacco product or possessing a lighted cigar, cigarette, pipe or other tobacco or non-tobacco product designed to be combusted and inhaled.

"Smoking bar", an establishment that occupies exclusively an enclosed indoor space and that primarily is engaged in the retail sale of tobacco products for consumption by customers on the premises; derives revenue from the sale of food, alcohol or other beverages that is incidental to the sale of the tobacco products; prohibits entry to a person under the age of 18 years of age during the time when the establishment is open for business; prohibits any food or beverage not sold directly by the business to be consumed on the premises; maintains a valid permit for the retail sale of tobacco products as required to be issued by the appropriate authority in the city or town where the establishment is located; and, maintains a valid permit to operate a smoking bar issued by the department of revenue.

"Workplace", an indoor area, structure or facility or a portion thereof, at which 1 or more employees perform a service for compensation for the employer, other enclosed spaces rented to or otherwise used by the public; and where the employer has the right or authority to exercise control over the space.

"Work space or work spaces", an enclosed area occupied by an employee during the course of his employment.

(b)(1) It shall be the responsibility of the employer to provide a smoke free environment for all employees working in an enclosed workplace.

(2) Smoking shall be prohibited in workplaces, work spaces, common work areas, classrooms, conference and meeting rooms, offices, elevators, hallways, medical facilities, cafeterias, employee lounges, staircases, restrooms, restaurants, cafes, coffee shops, food courts or concessions, supermarkets or retail food outlets, bars, taverns, or in a place where food or drink is sold to the public and consumed on the premise as part of a business required

to collect state meals tax on the purchase; or in a train, airplane, theatre, concert hall, exhibition hall, convention center, auditorium, arena, or stadium open to the public; or in a school, college, university, museum, library, health care facility as defined in section 9C of chapter 112, group child care center, school age child care center, family child care center, school age day or overnight camp building, or on premises where activities are licensed under section 38 of chapter 10 or in or upon any public transportation conveyance or in any airport, train station, bus station, transportation passenger terminal, or enclosed outdoor platform.

(3) A person shall not smoke in the state house or in a public building or in a vehicle or vessel, owned, leased, or otherwise operated by the commonwealth or a political subdivision thereof, or in a space occupied by a state agency or department of the commonwealth which is located in another building, including a private office in a building or space mentioned in this sentence, or at an open meeting of a governmental body as defined in section 11A of chapter 30A, section 23A of chapter 39 and section 9F of chapter 34, or in a courtroom or courthouse. This subsection shall not apply to a resident or patient of a state hospital, the Soldiers' Home in Massachusetts located in the city of Chelsea or the Soldiers' Home in Holyoke.

(c) Notwithstanding subsection (b), smoking may be permitted in the following places and circumstances:

(1) Private residences; except during such time when the residence is utilized as part of a business as a group childcare center, school age day care center, school age day or overnight camp, or a facility licensed by the office of child care services or as a health care related office or facility;

(2)(i) premises occupied by a membership association, if the premises is owned, or under a written lease for a term of not less than 90 consecutive days, by the association during the time of the permitted activity if the premises are not located in a public building; but no smoking shall be permitted in an enclosed indoor space of a membership association during the time the space is:

(A) open to the public; or

(B) occupied by a non-member who is not an invited guest of a member or an employee of the association; or

(C) rented from the association for a fee or other agreement that compensates the association for the use of such space.

(ii) Smoking may be permitted in an enclosed indoor space of a membership association at all times, if the space is restricted by the association to admittance only of its members, the invited guest of a member, and the employees of the membership association. A person who is a contract employee, temporary employee, or independent contractor shall not be considered an employee of a membership association under this subsection. A person who is a member of an affiliated chapter or branch of a membership association that is fraternal in nature operating under the lodge system, and is visiting the affiliated association, shall be an invited guest for the purposes of this subsection.

(3) A guest room in a hotel, motel, inn, bed and breakfast or lodging home that is designed and normally used for sleeping and living purposes, that is rented to a guest and designated as a smoking room pursuant to paragraph (1) of subsection (g).

(4) A retail tobacco store, if the store maintains a valid permit for the sale of tobacco products issued by the appropriate authority in the city or town in which the retail tobacco store is located. All required permits shall be displayed in a conspicuous manner, visible at all times to patrons of the establishment.

(5) A smoking bar, if the smoking bar maintains a valid permit pursuant to this section. All required permits shall be displayed in a conspicuous manner, visible at all times to patrons of the establishment.

(6) By a theatrical performer upon a stage or in the course of a professional film production, if the smoking is part of a theatrical production, and if permission has been obtained from the appropriate local authority;

(7) By a person, organization or other entity that conducts medical or scientific research on tobacco products, if the research is conducted in an enclosed space not open to the public, in a laboratory facility at an accredited college or university, or in a professional testing laboratory as defined by regulation of the department of public health;

(8) Religious ceremonies where smoking is part of the ritual; and

(9) A tobacco farmer, leaf dealer, manufacturer, importer, exporter, or wholesale distributor of tobacco products, may permit smoking in the workplace for the sole purpose of testing said tobacco for quality assurance purposes; if the smoking is necessary to conduct the test.

(e) If the outdoor space has a structure capable of being enclosed by walls or covers, regardless of the materials or the removable nature of the walls or covers, the space will be considered enclosed, when the walls or covers are in place. All outdoor spaces shall be physically separated from an enclosed work space. If doors, windows, sliding or folding windows or doors or other fenestrations form any part of the border to the outdoor space, the openings shall be closed to prevent the migration of smoke into the enclosed work space. If the windows, sliding or folding windows or doors or other fenestrations are opened or otherwise do not prevent the migration of smoke into the work space, the outdoor space shall be considered an extension of the enclosed work space and subject to this section.

(f)(1) A nursing home, licensed pursuant to section 71 of chapter 111 and any acute care substance abuse treatment center under the jurisdiction of the commonwealth, may apply to the local board of health having jurisdiction over the facility for designation of part of the facility as a residence.

(2) All applications shall designate the residential area of the facility. The residential area shall not contain an employee workspace, such as offices, restrooms or other areas used primarily by employees.

(3) The entire facility may not be designated as a residence.

(4) The designated residential area must be for the sole use of permanent residents

of the facility. No temporary or short-term resident may reside in the residential portion of the facility.

(5) All areas in the designated residential area in which smoking is allowed shall be conspicuously designated as smoking areas and be adequately ventilated to prevent the migration of smoke to nonsmoking areas.

(6) The facility shall provide suitable documentation, acceptable to the local board of health, that the facility is the permanent domicile of the residents residing in that portion of the facility, that information on the hazards of smoking and second hand smoke have been provided to all residences and that smoking cessation aids are available to all residents who use tobacco products.

(7) The designated residential area shall be in conformance with the smoking restriction requirements of section 72X of chapter 111 and 105 CMR 150.015 (D)(11)(b). All residential areas shall be clearly designated as such and shall not be altered or otherwise changed without the express approval of the local board of health.

(8) All areas of a nursing home not designated as a residence shall comply with this section.

(9) The nursing home shall make reasonable accommodations for an employee, resident or visitor who does not wish to be exposed to tobacco smoke.

(10) Upon compliance with this section, submission of the required documentation and satisfactory inspection, the local board of health shall certify the designated portion of the facility as a residence. The certification shall be valid for 1 year from the date of issuance. No fewer than 30 days before the expiration of the certification, the facility may apply for re-certification. If the local board of health does not renew the certification before its expiration or provide notice that it has found sufficient cause to not recertify the residence portion of the nursing home as such, the certification shall be considered to continue until the time as the local board of health notifies the nursing home of its certification status.

(g)(1) A designated smoking room in a hotel, motel, inn, bed and breakfast and lodging home shall be clearly marked as a designated smoking room on the exterior of all entrances from a public hallway and public spaces; and in the interior of the room. Instead of marking each room, an establishment may designate an entire floor of residential rooms as smoking. The floor shall be conspicuously designated as smoking at each entranceway on to the floor. Smoking shall not be allowed in the common areas of the floor, such as halls, vending areas, ice machine locations and exercise areas and shall comply with paragraph (4).

(2) A retail tobacco store that permits smoking on the premises shall, pursuant to paragraph (4), post in a clear and conspicuous manner, a sign at each entrance warning persons entering the establishment that smoking may be present on the premises; of the health risks associated from second hand smoke; and, that persons under the age of 18 years of age may not enter the premises.

(3) A smoking bar shall, pursuant to paragraph (4), post in a clear and conspicuous manner signs at all entrances which warn persons entering the establishment that smoking may be present on the premises; and, of the health risks associated from second hand smoke;

and, that persons under the age of 18 years of age may not enter the premises.

(4) Every area in which smoking is prohibited by law shall have "no smoking" signs conspicuously posted so that the signs are clearly visible to all employees, customers, or visitors while in the workplace.

(5) Additional signs may be posted in public areas such as, the following areas: lobbies; hallways; cafeterias; kitchens; locker rooms; customer service areas; offices where the public is invited; conference rooms; lounges; waiting areas; and elevators.

(6) Approved signs and templates for signage design may be obtained from the department of public health or the local boards of health.

(7) It shall be the responsibility of the establishment to ensure that the appropriate signage is displayed and that an individual or group renting the space enforces the prohibition against smoking.

(h)(a)(1) A smoking bar operating in the commonwealth shall obtain a smoking bar permit from the department of revenue. A permit issued by the department shall be valid for a period of 2 years from date of issuance unless suspended or revoked. A valid permit that is not suspended at the time of its expiration may be renewed for consecutive 2-year periods.

(2) A non-refundable fee may be required with each permit and renewal application. Each permit issued by the department shall be non-transferable, for a specific location and business; and, only 1 permit may be issued to a business for a specific location during any permit period.

(3) The department shall not issue or renew a smoking bar permit to any business that has not filed all tax returns and paid all taxes due the commonwealth; or is delinquent in filing all declaration statements in connection with the smoking bar permit as required by the department.

(4) The department shall notify the local board of health or municipal health department in the city or town where the establishment is located of any permits issued, renewed, suspended, revoked or reinstated to a business.

(b) A smoking bar shall demonstrate on a quarterly basis that revenue generated from the sale of tobacco products are equal to or greater than 51 per cent of the total combined revenue generated by the sale of tobacco products, food and beverages. The department shall require each business that has been issued a smoking bar permit to submit a quarterly declaration for each 3 month period that the business is in operation; notwithstanding, the first declaration may include a period of not to exceed 4 months. A declaration submitted to the department in connection with a smoking bar permit shall be signed by the owner or business agent under the pains and penalties of perjury. A declaration received by the department shall be confidential and the financial information contained therein shall not be disclosed to the public or any other state governmental agency or department except the attorney general. In the event a business has not filed a required declaration statement, the department shall give written notice to the business that the statement is delinquent and, shall suspend the permit of a business that does not submit the required report after 21 days of the

date of notice; but the department shall reinstate the suspended permit within 5 days after receiving the delinquent report.

(c) The department of revenue shall promulgate regulations to implement this section.

(i) Companies which sell ownership rights to owners of time share properties shall distinguish between smoking and non-smoking time share properties. Companies shall disclose to potential buyers whether the unit they are purchasing is a smoking or non-smoking property and post signs accordingly.

(j) Nothing in this section shall permit smoking in an area in which smoking is or may hereafter be prohibited by law including, without limitation: any other law or ordinance or by-law or any fire, health or safety regulation. Nothing in this section shall preempt further limitation of smoking by the commonwealth or any department, agency or political subdivision of the commonwealth.

(k) An individual, person, entity or organization subject to the smoking prohibitions of this section shall not discriminate or retaliate in any manner against a person for making a complaint of a violation of this section or furnishing information concerning a violation, to a person, entity or organization or to an enforcement authority. Notwithstanding the foregoing, a person making a complaint or furnishing information during any period of work or time of employment, shall do so only at a time that will not pose an increased threat of harm to the safety of other persons in or about such place of work or to the public.

(l) An owner, manager or other person in control of a building, vehicle or vessel who violates this section, in a manner other than by smoking in a place where smoking is prohibited, shall be punished by a fine of \$100 for the first violation; \$200 for a second violation occurring within 2 years of the date of the first offense; and \$300 for a third or subsequent violation within 2 years of the second violation. Each calendar day on which a violation occurs shall be considered a separate offense. If an owner, manager or other person in control of a building, vehicle or vessel violates this section repeatedly, demonstrating egregious noncompliance as defined by regulation of the department of public health, the local board of health may revoke or suspend the license to operate and shall send notice of the revocation or suspension to the department of public health. The department of public health shall promulgate regulations to implement this section including, but not limited to notice, collection, and reporting of the fines or license action, and defining uniform standards that warrant license suspension or revocation.

(m)(1) The local board of health, the department of public health, the local inspection department or the equivalent, a municipal government or its agent, and the alcoholic beverages control commission shall enforce this section. In addition, in the city of Boston, the commissioner of health and his authorized agents shall enforce this section.

(2) An individual or person who violates this section by smoking in a place where smoking is prohibited shall be subject to a civil penalty of \$100 for each violation. As an alternative to criminal prosecution, a violation of subsection (l) may also be considered a civil violation. Each enforcing agency under paragraph (1) shall dispose of a civil violation

of this section by the non-criminal method of disposition procedures contained in section 21D of chapter 40, without an enabling ordinance or by-law, or by the equivalent of these procedures by a state agency under regulations of the department of public health. The disposition of fines assessed under this section shall be subject to section 188 of chapter 111. Fines assessed by the commonwealth or its agents shall be subject to section 2 of chapter 29. In a city or town having an ordinance or by-law that imposes a fine greater than the fine imposed by this section, the ordinance or by-law shall prevail over this section.

(3) Any person may register a complaint to initiate an investigation and enforcement with the local board of health, the department of public health, or the local inspection department or the equivalent.

(4) The supreme judicial court or the superior court shall issue appropriate orders to enforce this section and any regulation under it, at the request of any agency mentioned in paragraph (1).

(5) A fine or fee collected by the commonwealth under this section shall be used for the enforcement or for educational programs on the harmful effects of tobacco.

(n) Each local board of health, each local inspection department or its equivalent, and the alcoholic beverages control commission shall report annually to the commissioner of public health, beginning January 1, 2006: the number of citations issued; the workplaces which have been issued citations and the number of citations issued to each workplace; the amount that each workplace has been fined; and the total amount collected in fines. The department of public health shall file a copy of the report with the clerks of the house of representatives and the senate.

(o) The department of public health may issue regulations to implement this section.

**SECTION 3.** (a) In determining the net income subject to tax under chapter 63 of the General Laws for a taxable year beginning on or after January 1, 2003 and ending not later than December 31, 2004, a domestic or foreign corporation may deduct the total amount paid for the purchase and installation of smoking accommodations to real property. This deduction shall be allowed only for smoking accommodations:

(i) that are tangible property that is depreciable pursuant to section 167 of the Internal Revenue Code, having a situs in the commonwealth and used by the corporation in its trade or business;

(ii) that were made pursuant to any board of health regulation, city ordinance, town by-law, or any other municipal provision, variance or exemption in effect on the effective date of this act; and

(iii) for which the construction, reconstruction, erection or improvement of such smoking accommodations was initiated on or after January 1, 2000 and the expenditures for such smoking accommodations were paid before December 31, 2003.

Any such deduction shall also be subject to the limitations that the amount of the deduction shall be reduced by any prior deduction taken for depreciation for the expenses of the same property in any preceding taxable year, and that the net income of the corporation

for any succeeding taxable year shall not be computed with any deduction for such expenditures or for depreciation of the property that was deducted under this section.

(b) The term "smoking accommodations" as used in this section shall mean any materials directly and necessarily used in the construction to install or modify a dedicated smoking area that is designed exclusively to reduce the presence of smoke in any interior space of a building, but only if the building where such an area is situated was built before January 1, 2000. These materials shall include, but are not limited to, a mechanical ventilation system, air duct and related heating and air conditioning system, wall, door, glass, or other barrier, plumbing, wiring, or gas line.

**SECTION 4.** There shall be a special commission to assist in the efficient implementation and compliance of this act. The commission shall consist of a representative from the Boston public health commission, the Massachusetts Restaurant Association, the Massachusetts Association of Health Boards, the Massachusetts Municipal Association, Massachusetts AFL-CIO, Associated Industries of Massachusetts, the Massachusetts chapter of the National Federation of Independent Business, the alcoholic beverages control commission, the Massachusetts Public Health Association, the department of public health, the department of public safety, and representatives from 15 local boards of health appointed by the commissioner of public health in which the commissioner shall take into account the size of the city or town and other unique factors to ensure diversity on the commission. The commissioner of public health may appoint additional members of the commission.

The commission shall review the compliance, outcomes and the impact of this act and report to the joint committee on health care and the commissioner of public health not later than 16 months after the effective date of this act.

**SECTION 5.** Section 4 shall take effect upon its passage; sections 1, 2, and 3 shall take effect on July 5, 2004.

Approved June 18, 2004.

## **Chapter 138. AN ACT AUTHORIZING THE TOWN OF SALISBURY TO MAKE AN APPEAL TO THE APPELLATE TAX BOARD.**

*Be it enacted, etc., as follows:*

**SECTION 1.** Notwithstanding section 14 of chapter 58 of the General Laws, relative to the time of application for correction of a determination of the valuation of land made under section 13 of said chapter 58, or any other general or special law or rule or regulation to the contrary, the board of assessors of the town of Salisbury may, within 90 days after the effective date of this act, make such written application to the appellate tax board in connection with the June 13, 2000 notice of such determination received by the town. The appellate tax board shall act on such application in accordance with said section 14 not more than 30 days following the date of such application.

---

## Chap. 138

**SECTION 2.** This act shall take effect upon its passage.

*This bill was returned by the Governor to the House of Representatives, the branch in which it originated, with his objections thereto, was passed by the House on May 18, 2004, and in concurrence by the Senate on June 9, 2004, the objections of the Governor notwithstanding, in the manner prescribed by the Constitution, and therefore has the force of law.*

### **Chapter 139. AN ACT AUTHORIZING THE TOWN OF GREENFIELD TO GRANT AN ADDITIONAL LICENSE FOR THE SALE OF ALL ALCOHOLIC BEVERAGES NOT TO BE DRUNK ON THE PREMISES.**

*Be it enacted, etc., as follows:*

**SECTION 1.** Notwithstanding section 17 of chapter 138 of the General Laws, the licensing authority of the town of Greenfield may grant to James Burke d/b/a Harper Package Store a license for the sale of all alcoholic beverages not to be drunk on the premises under section 15 of said chapter 138. The license shall be subject to all of said chapter 138, except said section 17.

**SECTION 2.** Notwithstanding any special or general law to the contrary, upon the issuance of the license authorized pursuant to section 1, the license for the sale of wines and malt beverages not to be drunk on the premises issued pursuant to section 15 of said chapter 138 and presently held by James Burke d/b/a Harper Package Store shall revert back to the town of Greenfield.

**SECTION 3.** This act shall take effect upon its passage.

Approved June 24, 2004.

### **Chapter 140. AN ACT PROVIDING FOR THE ANNUAL OBSERVANCE OF GUARDIANS' DAY.**

*Whereas, The deferred operation of this act would tend to defeat its purpose, which is to provide forthwith for the annual observance of Guardians' Day, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.*

*Be it enacted, etc., as follows:*

---

## **Chap. 140**

Chapter 6 of the General Laws is hereby amended by inserting after section 15WWW inserted by chapter 69 of the acts of 2004, the following section:-

Section 15XXXX. The governor shall annually issue a proclamation setting apart the fourth Sunday in April as Guardians' Day, in recognition of the generous contributions of guardians to the welfare of the commonwealth and recommending that the day be observed in an appropriate manner by the people.

Approved June 24, 2004.

### **Chapter 141. AN ACT AMENDING THE CHARTER OF THE TOWN OF ANDOVER.**

*Be it enacted, etc., as follows:*

**SECTION 1.** Subsection (b) of section 3 of the charter of the town of Andover which is on file in the office of the archivist of the commonwealth, as provided in section 12 of chapter 43B of the General Laws, is hereby amended by striking out the words ", a planning board of appeals".

**SECTION 2.** Subsection (d) of said section 3 of said charter is hereby amended by striking out, the words ", a board of public welfare".

**SECTION 3.** Section 4 of said charter is hereby amended by adding the following paragraph:-

In the charter words in the masculine gender shall be interpreted to include the feminine gender.

Approved June 24, 2004.

### **Chapter 142. AN ACT AUTHORIZING THE TOWN OF BEDFORD TO LEASE A CERTAIN PARCEL OF LAND.**

*Be it enacted, etc., as follows:*

**SECTION 1.** Notwithstanding any general or special law to the contrary, the town of Bedford, acting by and through its board of selectmen, may lease a certain parcel of land located in the town for a term not to exceed 99 years for the purposes of providing affordable family housing upon terms and conditions determined by the board of selectmen. The parcel is shown on Assessors' Map 74, Parcel 01.

**SECTION 2.** This act shall take effect upon its passage.

Approved June 24, 2004.

---

## **Chapter 143. AN ACT AUTHORIZING THE TOWN OF BELLINGHAM TO ESTABLISH A COMPENSATED ABSENCE FUND.**

*Be it enacted, etc., as follows:*

Notwithstanding section 53 of chapter 44 of the General Laws or any other general or special law to the contrary, the town of Bellingham may establish a separate fund to be known as the Compensated Absence Fund, which the town treasurer shall keep separate and apart from all other monies of the town, and into which shall be deposited all income derived from the investment of funds that may be appropriated by the town to such fund and the proceeds of any appropriation, grants, transfers or gifts received by the town for deposit in the fund. Any income derived from the investment or reinvestment of amounts held in the fund shall remain with and become part of the fund. The town treasurer shall be the custodian of the fund and shall make an account of the fund at each annual town meeting. Any funds held in the fund shall constitute trust funds within the meaning of section 54 of chapter 44 of the General Laws. Monies in the fund may be expended for the payment of final compensated absence as provided by union contract or by law for employees of the town.

Approved June 24, 2004.

## **Chapter 144. AN ACT RELATIVE TO THE SANDWICH WATER DISTRICT.**

*Be it enacted, etc., as follows:*

**SECTION 1.** Section 1 of chapter 280 of the acts of 1947 is hereby amended by inserting after the word "themselves", in line 30, the following words:- and others.

**SECTION 2.** Section 2 of said chapter 280, as most recently amended by section 2 of chapter 587 of the acts of 1989, is hereby further amended by striking out the first sentence and inserting in place thereof the following sentence:- For the purposes aforesaid, the district, acting by and through its board of water commissioners, may contract with any municipality, acting through its water department, or with any water company, or with any water district, for the purchase or sale of whatever water may be required, authority to furnish or purchase the same being hereby granted, and may take by eminent domain under chapter 79 or chapter 80A of the General Laws, or acquire by lease, purchase or otherwise, and hold, the waters, or any portion thereof, of any pond, spring or stream, or of any ground sources of supply by means of driven, artesian or other wells, within the town of Sandwich not already appropriated for the purposes of a public water supply, and the water and flowage rights connected with any such water sources, and for said purposes may take as aforesaid, or acquire by purchase or otherwise, and hold, all lands, rights of way, and other easements necessary for collecting, storing, holding, purifying and preserving the purity of the water and for conveying the same to any part of said district or any municipality water company or water district and may contract for, or acquire by deed of easement or in fee temporary or

permanent easements and fee simple interests in land in the towns of Sandwich, Bourne and Mashpee for the purposes of construction, operation and maintenance on such land of water storage tanks, water distribution systems, access roads and other necessary appurtenances, provided, that no source of water supply or lands necessary for preserving the quality of the water shall be so taken or used without first obtaining the advice and approval of the department of environmental protection, and that the location and arrangement of all dams, reservoirs, springs, wells, pumping purification, and filtration plants and such other works as may be necessary in carrying out this act shall be subject to the approval of said department.

**SECTION 3.** Said section 2 of said chapter 280, as amended by said section 2 of said chapter 587, is hereby further amended by striking out, in lines 50 and 51, the words "selectmen of the town of Sandwich" and inserting in place thereof the following words:- of the appropriate governmental agency of the respective towns in which such lands, highways or other ways are located.

**SECTION 4.** Said section 2 of said chapter 280, as amended by said section 2 of said chapter 587, is hereby further amended by adding the following sentence:- The district, acting by and through its board of water commissioners, hereinafter provided for, may from time to time, sell, lease or otherwise dispose of such of the property of the district as shall, in the opinion of its board of water commissioners, be no longer useful in the conduct of the affairs of the district, and, in general, may do all things necessary, convenient or desirable for carrying out the purpose of this act or the powers expressly granted or necessary implied by this act.

**SECTION 5.** Said chapter 280 is hereby further amended by striking out section 4 and inserting in place thereof the following section:-

*Section 4.* For the purposes of paying the necessary expenses and liabilities incurred under this act, other than expenses of maintenance and operation, the district may borrow from time to time such sums as may be necessary, not exceeding, in the aggregate, 50 million dollars, and may issue bonds or notes therefore, which shall bear on their face the words, Sandwich Water District Loan, Act of 1947. Each authorized issue shall constitute a separate loan, and such loans shall be payable in not more than 40 years from their dates. The district may borrow from time to time such sums as may be necessary for the purposes of this act in anticipation of revenue. Indebtedness incurred under this act shall, except as otherwise provided herein, be subject to the provisions of chapter 44 of the General Laws pertaining to such districts.

**SECTION 6.** Section 5 of said chapter 280 is hereby amended by inserting before the first sentence the following 2 sentences:- Each such borrowing and each such issue of bonds or notes shall constitute a separate loan, shall be authorized by the affirmative vote of not less than  $\frac{2}{3}$  of those present at an annual or special meeting of the district, and shall be upon the full faith and credit of the district. All bonds or notes issued under this act shall be obligatory upon the district and its inhabitants and the property within the limits of the district according to the tenor and purport thereof.

**SECTION 7.** Section 6 of said chapter 280 is hereby amended by inserting after the word "improved", in line 2, the following words:- , held, disposed of.

**SECTION 8.** Section 7 of said chapter 280 is hereby amended by inserting before the first sentence the following sentence:- If for any reason the revenues and available funds of the district, including revenues from prices, fees, charges and rates for the use of water as provided herein, shall not be sufficient to pay the full cost of development and operation of the district, the district shall have the power by vote at a district meeting duly called by the water commissioners, to raise and appropriate by a district tax sufficient funds to pay the full cost of development or operation of the district.

**SECTION 9.** Said section 7 of said chapter 280 is hereby further amended by adding the following sentence:- The manner of collection of district taxes shall be identical to the manner of collection of town taxes, including all provisions for the collection and enforcement of collection by liens, tax takings and foreclosures.

**SECTION 10.** Section 9 of said chapter 280 is hereby amended by inserting after the word "district", in line 25, the following words:- provided, however, that for the district's fiscal years commencing on and after July 1, 2005, the district's clerk and treasurer, as well as such other officers and employees not specifically provided for in this act, as the board of water commissioners may deem necessary and proper, shall instead be appointed by the board of water commissioners, each for such term and for such compensation as the board of water commissioners may determine.

**SECTION 11.** Section 10 of said chapter 280 is hereby amended by inserting after the word "construction", in lines 9 and 11, the following words:- or systems development costs.

**SECTION 12.** Said section 10 of said chapter 280 is hereby further amended by striking out, in lines 11 and 12, the words "the water rates shall be reduced proportionately" and inserting in place thereof the following words:- it shall be applied to pay costs of operation of the district for the succeeding fiscal year.

**SECTION 13.** Said section 10 of said chapter 280 is hereby further amended by adding the following paragraph:-

The district may charge a one time systems development charge to those applicants seeing to connect into the water supply system, which funds shall be kept by the district treasurer in a separate account to be appropriated by a district meeting and applied, as needed, for the cost of acquisition or development of new well fields, storage and distribution systems, and the purchase of all related materials, equipment, labor, work and all other items associated therewith which will contribute to the betterment of the waterworks system. Anything set forth in this section to the contrary notwithstanding, if there should be a net surplus remaining at the end of any fiscal year after the payment of all costs of operation, such net surplus may be appropriated by a district meeting for systems development costs as recommended by the board of water commissioners; and in the absence of any such recommendation, shall be applied to pay costs of operation for the district for the succeeding

fiscal year. Any systems development charge funds held in a separate systems development charge funds account so established by the district are to be excluded in the determination of net surplus. The district may, for the purposes of creating a stabilization fund, appropriate in any fiscal year an amount not exceeding 10 per cent of the amount raised in the preceding fiscal year by taxation of real estate. Any interest accruing shall be added to and become a part of the fund. The stabilization fund may be appropriated at an annual meeting by a 2/3 vote for any purposes for which the district would be authorized to borrow money. The district assessors, which for purposes hereof shall be the assessors of the town of Sandwich, may create an overlay fund by adding the amount to be assessed in accordance with section 25 of chapter 59 of the General Laws. The district may, by a vote at a district meeting, provide for the levy of special assessments to meet the whole or part of the cost thereafter incurred of laying pipes in public and private ways for the conveyance or distribution of water to its inhabitants in accordance with the provisions of sections 42G, 42H and 42I of chapter 40 of the General Laws.

**SECTION 14.** Section 13 of said chapter 280 is hereby amended by striking out, in line 6, the words "the owners of such real estate, or a major portion" and inserting in place thereof the following words:- a majority of the owners.

**SECTION 15.** Said section 13 of said chapter 280 is hereby further amended by adding the following sentence:- If the district acquires land within the town of Sandwich by purchase, gift, transfer or eminent domain, the district clerk shall, within 10 days thereafter, file with the town clerk of the town of Sandwich an attested copy of the instrument of acquisition and thereupon the real estate shall become part of the district and shall be held under this act in the same manner and to the same extent as the real estate described in section 1.

Approved June 24, 2004.

## **Chapter 145. AN ACT ESTABLISHING THE IPSWICH AFFORDABLE HOUSING TRUST FUND.**

*Be it enacted, etc., as follows:*

**SECTION 1.** The town of Ipswich may establish a trust to be known as the Ipswich Affordable Housing Trust Fund, hereinafter referred to as the trust. The trust may receive funds appropriated by the town and may also receive the proceeds from any gift, grant or other source of funding. The purpose of the trust is to assist in the creation and preservation of affordable housing in the town for the benefit of low and moderate-income households. The trust shall be an expendable trust fund. The trust shall finance low and no interest loans, grants, subsidies, credit enhancements and other financial assistance for community affordable and mixed-income housing developments located in the town of Ipswich and shall pay for administering the trust.

**SECTION 2.** There is hereby established a board of trustees, hereinafter referred to as the board, which shall include 5 trustees, including ex officio the town manager or his designee. Those trustees that are not serving in an ex officio capacity shall be appointed by the board of selectmen, after consultation with the Ipswich Housing Partnership. At least 2 of the trustees shall also be members of the Ipswich Housing Partnership, if in existence at the time of appointment. The trustees are designated as public agents, and shall be appointed for terms of up to 3 years each, so arranged that the term of  $\frac{1}{3}$  of the board or as nearly that number as may be possible, shall expire each year.

**SECTION 3.** The powers of the board, all of which shall be carried on in furtherance of the proposed set forth in this act, shall include, but not be limited to, the following:-

(a) to accept and receive property on behalf of the trust, whether real or personal, by gift, grant, devise, or transfer from any person, firm, corporation or other public or private entity, including without limitation grants of funds or other property rendered to the trust in connection with provisions of the Ipswich zoning by-law or any other town by-law;

(b) to recommend to the board of selectmen the sale, lease, exchange, transfer or conveyance any personal, mixed, or real property of the trust at public auction or by private contract for such consideration and on such terms as to credit or otherwise as the board deems advisable;

(c) to employ advisors or agents, such as accountants, appraisers, planners and attorneys and to delegate to such persons or firms ministerial or discretionary powers as the board deems necessary;

(d) to apportion receipts and charges between income and principle as the board deems advisable, to amortize premiums and establish sinking funds for such purpose, and to create reserves for depreciation depletion or otherwise; and to give proxies or powers of attorney with or without power of substitution to vote any securities or certificates of interest;

(e) to carry property for accounting purposes other than acquisition date values;

(f) to borrow money on such terms and conditions and from such sources as the board deems advisable;

(g) to hold trust property on behalf of the town provided the trust property is at all times identified as such in the books of the trust, and to hold any securities in registered or in bearer form;

(h) to extend the time for payment of any obligation to the trust;

(i) the trust shall be maintained as a separate fund and the board shall cause it to be audited by an independent accountant on an annual basis in accordance with accepted accounting principles. A copy of all audits shall be submitted to the board of selectmen of the town of Ipswich within 30 days of completion.

**SECTION 4.** This act shall take effect upon its passage.

Approved June 24, 2004.

---

## **Chapter 146. AN ACT RELATIVE TO CERTAIN COMMERCIAL CONTRACTS OF INSURANCE.**

*Be it enacted, etc., as follows:*

**SECTION 1.** The first paragraph of section 168 of chapter 175 of the General Laws, as appearing in the 2002 Official Edition, is hereby amended by inserting after the fifth sentence the following 2 sentences:- The affidavit shall not be required in connection with a transaction with an exempt commercial risk or policyholder as defined in section 224, if the commercial risk or policyholder acknowledges in writing its understanding, that: (1) the company from which insurance is procured is not admitted to transact insurance in the commonwealth; and (2) in the event of the insolvency of the company, a loss shall not be paid by the Massachusetts Insurers Insolvency Fund under chapter 175D. Each licensed special insurance broker shall maintain a copy of the acknowledgement for inspection by the commissioner with respect to all policies of insurance so procured by the licensee for exempt commercial risks or policyholders.

**SECTION 2.** Said chapter 175 is hereby further amended by adding the following 2 sections:-

Section 224. (a) For the purposes of this section, the following words shall have the following meanings:

"Contract of insurance", a contract of insurance as defined in section 2 providing for property or casualty insurance coverages or any combination thereof.

"Large commercial policyholder", the holder of a contract of insurance which is a corporation, partnership, trust, sole proprietorship or other business or public entity, has aggregate property and casualty insurance premiums of \$30,000 excluding workers' compensation, which has certified that it elects to be treated as a large commercial policyholder and understands the limited regulatory oversight that the election connotes and has certified that it meets 2 of the following criteria:

(1) net worth of \$10,000,000;

(2) net revenue or sales of \$5,000,000;

(3) more than 25 employees per individual company or more than 50 employees per holding company aggregate;

(4) nonprofit or public entity with an annual budget or assets of \$25,000,000 or more;

(5) municipality with a population of 20,000 or more; or

(6) retains a risk manager who shall be a full-time employee or a person retained by a large commercial policyholder, either of which shall be licensed and shall be 1 of the following:- (i) a certified insurance counselor; (ii) a chartered property and casualty underwriter; (iii) an associate in risk management; (iv) a certified risk manager; or (v) a licensed insurance advisor in property and casualty insurance.

(b) As they relate to the regulation of policy form and content and the filing, approval and fixing and establishing of rates, section 6 of chapter 174A, chapter 175, including, but not limited to sections 22A, 157, 193F, 193G, and 193H, chapter 175A, chapter 175B, chapter 175C, chapter 175D and chapter 176H shall not apply to a contract of insurance issued

to a large commercial policyholder. Notwithstanding other requirements of this section, an insurer issuing a contract of insurance to a large commercial policyholder shall maintain underwriting files, premium, loss and expense statistics, financial and other records with regard to the contract of insurance which shall be subject to examination by the commissioner pursuant to section 4.

Section 225. (a) A policy issued pursuant to the commercial risks provisions of section 224 shall contain the following disclosure notice to the policyholder:- The policy applied for is not subject to all insurance laws that apply to other commercial lines products and may contain significant differences from a policy that is subject to all insurance laws. The notice shall also clearly set forth policy conditions and endorsements. The notice shall include, but not be limited to, reference to claims-made versus occurrence triggers, perils, exclusions, location or territory limitations, and defense within limits or outside of limits. The disclosure notice shall also include a policyholder's acknowledgement statement, to be signed and dated by the first named insured before the effective date of coverage. The first named insured shall sign and date a similar notice before each renewal of the policy, except if there are no material changes to the policy. The original and subsequent signed notice, if any, shall be retained in the company underwriting file. The notice shall state: I hereby acknowledge that I have read the above disclosure notice and have received a copy of the same.

(b) The requirements for commercial risk policies issued pursuant to section 224 shall only apply once, at the inception of the policy, except that the requirements shall apply to a renewal of policy where there are material changes to the policy form.

The policy shall be delivered: (1) at least 10 days before the effective date; or (2) permit the insured to terminate the policy, on a pro-rata basis and without penalty, within 20 days of the receipt of the policy.

Approved June 24, 2004.

## **Chapter 147. AN ACT PROVIDING FOR FILLING VACANCIES IN THE OFFICE OF MAYOR, CITY COUNCILLOR-AT-LARGE, WARD COUNCILLOR AND SCHOOL COMMITTEE MEMBER OF THE CITY OF REVERE.**

*Be it enacted, etc., as follows:*

**SECTION 1.** (a) Notwithstanding section 59A of chapter 43 of the General Laws, if a vacancy occurs in the office of mayor of the city of Revere by death, removal, resignation, or otherwise, at any time during the first year, the first 6 months of the second year, the third year and the first 6 months of the fourth year of the mayor's term of office, the city clerk shall immediately order an election to fill the vacancy for the remainder of the unexpired term. A vacancy shall not be filled in the manner provided in this section if the vacancy occurs during the last 6 months of the term of office of mayor. If a vacancy occurs

in the office of mayor within 6 months of the city's regular municipal election, in the second year of the mayor's term of office, the city clerk shall order an election to fill such vacancy for the remainder of the unexpired term at the city's regular municipal election.

(b) The president of the city council shall perform the duties of mayor until a new mayor is elected and sworn to the faithful discharge of his duties. The president of the city council shall be called "acting mayor" and he shall possess the powers of mayor only in matters not admitting of delay, but shall have no power to make permanent appointments.

(c) Notwithstanding any general or special law to the contrary, there shall not be a preliminary election to fill the vacancy in the office of mayor. Candidates seeking to fill the vacancy, whose nomination papers have been duly certified, shall be considered to have been nominated.

**SECTION 2.** Notwithstanding section 59A of chapter 43 of the General Laws, if a vacancy occurs, at any time, in the office of councillor-at-large elected by and from the qualified voters of the city of Revere, by death, removal, resignation or otherwise, the remaining city councillors shall, within 30 days following the date of the vacancy, act to fill the vacancy. The city council shall fill the vacancy, for the remainder of the unexpired term, by selecting the defeated runner-up for city councillor-at-large from the last regular election; if the defeated runner-up is willing to be selected to the position of city councillor-at-large and is eligible to fill the vacancy in accordance with chapter 53 of the General Laws and is not ineligible to fill the vacancy pursuant to any General Law. If the defeated runner-up is unwilling or ineligible to be selected to the position of city councillor-at-large, the city council shall then proceed to fill the vacancy for the remainder of the unexpired term until a willing and eligible defeated runner-up, from the last regular election is selected to the position of city councillor-at-large. If there is no willing and eligible defeated runner-up for city councillor-at-large from the last regular election available to be selected to the position of city councillor-at-large, the remaining city councillors shall, within 30 days following the date of the vacancy, meet and fill the vacancy by a majority vote of all the remaining members of the city council, for the remainder of the unexpired term. Any defeated runner-up, selected to fill the vacancy, on the city council, shall take the oath of office and commence to serve immediately. A vacancy shall not be filled, in the manner herein provided if a vacancy occurs during the last 6 months of the term of a city councillor-at-large elected by and from the qualified voters of the city.

**SECTION 3.** (a) Notwithstanding section 59A of chapter 43 of the General Laws, if a vacancy occurs before the last 6 months of the term, in the office of a councillor elected by and from the voters of a ward of the city of Revere, the city council shall immediately order an election to fill the vacancy for the remainder of the unexpired term. A vacancy shall not be filled, in the manner provided herein, if the vacancy occurs during the last 6 months of the term of councillor.

(b) Notwithstanding any general or special law to the contrary, there shall not be a preliminary election in the city of Revere, to fill vacancy in the office of a ward councillor, as described in this section. Candidates to fill the vacancy, whose nomination papers have been duly certified, shall be deemed to have been nominated.

**SECTION 4.** (a) Notwithstanding section 36 of chapter 43 of the General Laws, if a vacancy occurs in the school committee of the city of Revere, by death, removal, resignation or otherwise, the city council and the remaining members of the school committee, shall within 30 days following the date of the vacancy, meet in joint convention and fill the vacancy for the remainder of the unexpired term by selecting the defeated runner-up for school committee from the last regular election; if the defeated runner-up is willing and is eligible to fill the vacancy in accordance with chapter 53 of the General Laws and is not ineligible to fill the vacancy pursuant to any other General Law. If the defeated runner-up is unwilling or ineligible to be selected to the position of school committee member, the joint convention of the city council and school committee shall then proceed to fill the vacancy for school committee for the remainder of the unexpired term until a defeated runner-up is willing and eligible to be selected to the position of school committee member.

(b) If there is no willing and eligible defeated runner-up for school committee from the last regular election available to be selected to the position of school committee member, the city council and the remaining members of the school committee, shall within 30 days following the date of the vacancy, meet in joint convention and fill the vacancy by a majority vote of the city council and remaining members of the school committee, for the remainder of the unexpired term. The person selected to fill the vacancy on the school committee shall take the oath of office and commence to serve immediately. A vacancy shall not be filled in the manner provided in this section if a vacancy occurs on the school committee during the last 6 months of the term.

**SECTION 5.** This act shall take effect upon its passage.

Approved June 24, 2004.

**Chapter 148. AN ACT AUTHORIZING THE APPOINTMENT OF KELLY MCNIFF  
AS A FIREFIGHTER IN THE TOWN OF BOURNE  
NOTWITHSTANDING THE MAXIMUM AGE REQUIREMENT.**

*Be it enacted, etc., as follows:*

**SECTION 1.** Notwithstanding any general or special law, rule or regulation to the contrary regulating the maximum age of applicants for appointment as a firefighter, the administrator of the division of personnel administration shall certify the name of Kelly McNiff for original appointment to the position of firefighter in the town of Bourne according to the grade she received on her civil service examination for the position. If Kelly McNiff meets all of the requirements for such appointment to this position, the town of Bourne may appoint her.

**SECTION 2.** This act shall take effect upon its passage.

Approved June 24, 2004.

---

**Chapter 149. AN ACT MAKING APPROPRIATIONS FOR THE FISCAL YEAR 2005 FOR THE MAINTENANCE OF THE DEPARTMENTS, BOARDS, COMMISSIONS, INSTITUTIONS AND CERTAIN ACTIVITIES OF THE COMMONWEALTH, FOR INTEREST, SINKING FUND AND SERIAL BOND REQUIREMENTS AND FOR CERTAIN PERMANENT IMPROVEMENTS.**

*Whereas*, The deferred operation of this act would tend to defeat its purpose, which is immediately to make appropriations for the fiscal year beginning July 1, 2004, and to make certain changes in law, each of which is immediately necessary or appropriate to effectuate said appropriations or for other important public purposes, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

*Be it enacted, etc., as follows:*

**SECTION 1.** To provide for the maintenance of the several departments, boards, commissions and institutions and other services, and for certain permanent improvements and to meet certain requirements of law, the sums set forth in sections 2, 2B, 2D and 3, for the several purposes and subject to the conditions specified in sections 2, 2B, 2D and 3, are hereby appropriated from the General Fund unless specifically designated otherwise, subject to the provisions of law regulating the disbursement of public funds and the approval thereof for the fiscal year ending June 30, 2005. All sums appropriated under this act, including supplemental and deficiency budgets, shall be expended in a manner reflecting and encouraging a policy of nondiscrimination and equal opportunity for members of minority groups, women and handicapped persons. All officials and employees of an agency, board, department, commission or division receiving monies under this act shall take affirmative steps to ensure equality of opportunity in the internal affairs of state government, as well as in their relations with the public, including those persons and organizations doing business with the commonwealth. Each agency, board, department, commission or division, in spending appropriated sums and discharging its statutory responsibilities, shall adopt measures to ensure equal opportunity in the areas of hiring, promotion, demotion or transfer, recruitment, layoff or termination, rates of compensation, in-service or apprenticeship training programs and all terms and conditions of employment.

**SECTION 1A.** In accordance with Articles LXIII and CVII of the Articles of Amendment to the Constitution of the Commonwealth and section 6D of chapter 29 of the General Laws, it is hereby declared that the amounts of revenue set forth in this section by source for the respective funds of the commonwealth for the fiscal year ending June 30, 2005 are necessary and sufficient to provide the means to defray the appropriations and expenditures from such funds for said fiscal year as set forth and authorized in sections 2 and 2B. The comptroller shall keep a distinct account of actual receipts from each such source by each such fund to furnish the executive office for administration and finance and the house and senate committees on ways and means with quarterly statements comparing

---

**Chap. 149**

such receipts with the projected receipts set forth herein and to include a full statement comparing such actual and projected receipts in the annual report for said fiscal year pursuant to section 12 of chapter 7A of the General Laws. The quarterly and annual reports shall also include detailed statements of any other sources of revenue for the budgeted funds in addition to those specified in this section.

FY2005 Revenue By Source and Budgetary Fund  
(in millions)

Source	All Funds	General	MBTA	Highway	Other
Alcoholic Beverages	70.2	70.2	-	-	-
Cigarette	415.6	344.6	-	-	71.0
Corporations	1,067.0	1,067.0	-	-	-
Deeds	150.0	150.0	-	-	-
Estate/Inheritance	184.0	184.0	-	-	-
Financial Institutions	254.9	254.9	-	-	-
Income	8,572.3	8,572.3	-	-	-
Insurance	410.0	410.0	-	-	-
Motor Fuels	702.1	101.2	-	600.0	0.9
Public Utilities	54.9	54.9	-	-	-
Room Occupancy	92.1	59.9	-	-	32.2
Sales & Use: Regular	2,647.6	2,093.8	553.8	-	-
Sales & Use: Meals	531.1	531.1	-	-	-
Sales & Use: Motor Vehicles	623.8	493.3	130.5	-	-
Miscellaneous	4.3	4.3	-	-	-
Unemployment Insurance	21.0	-	-	-	21.0
Surcharges					
Gross Consensus Revenue	15,801.1	14,391.6	684.3	600.0	125.2
Forecast					
Transfers off budget:					
MBTA	(684.3)	-	(684.3)	-	-
Pensions	(1,217.0)	(1,217.0)	-	-	-
Net Consensus Forecast	13,899.8	13,174.6	-	600.0	125.2
(Joint Tax Number)					

---

**Chap. 149**

Source	All Funds	General	MBTA	Highway	Other
Tax Adjustments after Consensus Forecast:					
Closure of Tax Loopholes	89.0	89.0	-	-	-
Enhanced Auditing (item 1201-0130)	65.5	65.5	-	-	-
Lottery Prize Assignment	12.7	12.7			
Total Taxes	14,067.0	13,341.8	-	600.0	125.2
<hr/>					
School Building Assistance	(395.7)	(395.7)	-	-	-
Transfer Off Budget					
Lottery Prize Assignment to Stabilization Fund	-	(12.7)	-	-	12.7
Net Taxes for Budget	13,671.2	12,933.4	-	600.0	137.9
<hr/>					
Federal Reimbursements	5,029.2	4,685.9	-	3.6	339.7
Departmental Revenues	1,850.2	1,396.7	-	435.5	18.0
Transfers & Other Receipts	1,449.5	2,135.7	-	(74.1)	(612.1)
<hr/>					
Total for Budget	22,000.0	21,151.6	-	965.0	(116.6)

**SECTION 1B.** The comptroller shall keep a distinct account of actual receipts of non-tax revenues by each department, board, commission or institution to furnish the executive office for administration and finance and the house and senate committees on ways and means with quarterly statements comparing such receipts with projected receipts set forth herein and to include a full statement comparing such receipts with projected receipts in the annual report for such fiscal year pursuant to section 12 of chapter 7A of the General Laws. The quarterly and annual reports shall also include detailed statements of any other sources of revenue for the budgeted funds in addition to those specified in this section.

**Non-Tax Revenue: Executive Office Summary**

Revenue Source	Unrestricted Non-Tax	Restricted Non-Tax	Total Non-Tax
Judiciary	\$66,906,492	\$35,750,000	\$102,656,492
District Attorneys	(\$1)	\$0	(\$1)
Office of the Governor	\$0	\$0	\$0
Office of the Secretary of State	\$204,521,552	\$105,000	\$204,626,552
Office of the State Treasurer	\$649,223,073	\$665,031,181	\$1,314,254,254
State Auditor's Office	\$100	\$0	\$100
Office of the Attorney General	\$7,886,965	\$0	\$7,886,965

## Chap. 149

Revenue Source	Unrestricted Non-Tax	Restricted Non-Tax	Total Non-Tax
Ethics Commission	\$38,500	\$0	\$38,500
Office of the Inspector General	\$0	\$493,819	\$493,819
Campaign & Political Finance	\$28,500	\$0	\$28,500
Office of the State Comptroller	\$142,528,874	\$25,000	\$142,553,874
Executive Office:Administration &	\$547,008,668	\$34,989,484	\$581,998,152
Office of the State Comptroller	\$4,000,000	\$0	\$4,000,000
Executive Office:Environmental Affairs	\$80,471,089	\$8,896,116	\$89,367,205
Executive Office:Human Services	\$4,766,904,104	\$408,590,767	\$5,175,494,871
Executive Office:Transportation	\$9,313,868	\$27,344	\$9,341,212
Board of Library Commissioners	\$0	\$0	\$0
Labor, Education and Development	\$231,522,045	\$3,066,593	\$234,588,638
Executive Office of Public Safety	\$469,467,646	\$54,513,809	\$523,981,455
Office of the Secretary of State	\$0	\$150,000	\$150,000
Executive Office of Elder Affairs	\$28,044,746	\$0	\$28,044,746
Legislature	\$0	\$0	\$0
Taxes	\$13,580,536,130	\$0	\$13,580,536,130
<i>Total:</i>	\$20,788,402,353	\$1,211,639,113	\$22,000,041,466

### Non-Tax Revenue: Executive Office by Department Summary

Revenue Source	Unrestricted Non-Tax	Restricted Non-Tax	Total Non-Tax
Judiciary	\$66,906,492	\$35,750,000	\$102,656,492
Supreme Judicial Court	\$3,211,060	\$0	\$3,211,060
Committee for Public Counsel	\$76,021	\$750,000	\$826,021
Appeals Court	\$417,085	\$0	\$417,085
Trial Court	\$63,202,326	\$35,000,000	\$98,202,326
<i>TOTALS:</i>	\$66,906,492	\$35,750,000	\$102,656,492
District Attorneys			
Northern District Attorney	\$0	\$0	\$0
Northwestern District Attorney	\$0	\$0	\$0
Eastern District Attorney	\$0	\$0	\$0
Middle District Attorney	\$0	\$0	\$0
Hampden District Attorney	\$0	\$0	\$0
<i>TOTALS:</i>	(\$1)	\$0	(\$1)

---

**Chap. 149**

Revenue Source	Unrestricted Non-Tax	Restricted Non-Tax	Total Non-Tax
Office of the Governor			
Office of the Governor	\$0	\$0	\$0
<i>TOTALS:</i>	\$0	\$0	\$0
Office of the Secretary of State			
Secretary of State	\$204,521,552	\$105,000	\$204,626,552
<i>TOTALS:</i>	\$204,521,552	\$105,000	\$204,626,552
Office of the State Treasurer			
Treasurer's Office	\$247,492,014	\$0	\$247,492,014
State Lottery Commission	\$393,370,854	\$665,031,181	\$1,058,402,035
Mass Cultural Council	\$8,360,205	\$0	\$8,360,205
<i>TOTALS:</i>	\$649,223,073	\$665,031,181	\$1,314,254,254
State Auditor's Office			
State Auditor's Office	\$100	\$0	\$100
<i>TOTALS:</i>	\$100	\$0	\$100
Office of the Attorney General			
Attorney General	\$7,886,965	\$0	\$7,886,965
Victim Witness Assistance	\$0	\$0	\$0
<i>TOTALS:</i>	\$7,886,965	\$0	\$7,886,965
Ethics Commission			
Ethics Commission	\$38,500	\$0	\$38,500
<i>TOTALS:</i>	\$38,500	\$0	\$38,500
Office of the Inspector General			
Inspector General	\$0	\$493,819	\$493,819
<i>TOTALS:</i>	\$0	\$493,819	\$493,819
Campaign & Political Finance			
Campaign & Political Finance	\$28,500	\$0	\$28,500
<i>TOTALS:</i>	\$28,500	\$0	\$28,500
Office of the State Comptroller			
Comptroller's Office	\$140,874,736	\$0	\$140,874,736
Comptroller's Office	\$965,143	\$0	\$965,143
Comptroller's Office	\$688,995	\$25,000	\$713,995
<i>TOTALS:</i>	\$142,528,874	\$25,000	\$142,553,874

---

**Chap. 149**

Revenue Source	Unrestricted Non-Tax	Restricted Non-Tax	Total Non-Tax
Executive Office: Administration & Finance			
Veterans Affairs	\$168,361	\$300,000	\$468,361
Civil Service Commission	\$4,875	\$0	\$4,875
Secretary of Administration & Finance	\$0	\$0	\$0
Secretary of Administration & Finance	\$2,376,083	\$436,381	\$2,812,464
Comptroller's Office	\$4,000,000	\$0	\$4,000,000
Division of Fiscal Affairs -	\$67,791,029	\$0	\$67,791,029
Fringe Recovery			
Fingold Library	\$700	\$0	\$700
Office of Dispute Resolution	\$0	\$0	\$0
DCAMM	\$32,572,244	\$12,554,322	\$45,126,566
Group Insurance Commission	\$170,394,152	\$0	\$170,394,152
Division of Administrative	\$84,613	\$0	\$84,613
Law Appeals			
Civil Service Commission	\$21,000	\$0	\$21,000
M.C.A.D.	\$0	\$2,495,482	\$2,495,482
Dept of Revenue	\$270,860,299	\$16,187,280	\$287,047,579
Appellate Tax Board	\$1,534,523	\$300,000	\$1,834,523
Human Resources Division	\$55,000	\$1,490,615	\$1,545,615
Division of Operational	\$1,027,888	\$778,000	\$1,805,888
Services			
BSOB	\$112,901	\$0	\$112,901
Division of Information Technology	\$5,000	\$447,404	\$452,404
<i>TOTALS:</i>	\$551,008,668	\$34,989,484	\$585,998,152
Executive Office: Environmental Affairs			
Secretary of Environmental Affairs	\$1,479,850	\$775,000	\$2,254,850
Dept of Conservation and Recreation	\$6,064,301	\$3,703,218	\$9,767,519
Dept of Environmental Protection	\$47,818,035	\$1,200,000	\$49,018,035
Fish/Wildlife Environmental Law	\$12,687,456	\$167,898	\$12,855,354
Enforcement			
Dept of Conservation and Recreation	\$4,871,066	\$3,050,000	\$7,921,066
Dept of Conservation and Recreation	\$4,168,830	\$0	\$4,168,830
Dept of Food & Agriculture	\$3,381,551	\$0	\$3,381,551
<i>TOTALS:</i>	\$80,471,089	\$8,896,116	\$89,367,205

---

**Chap. 149**

Revenue Source	Unrestricted Non-Tax	Restricted Non-Tax	Total Non-Tax
<b>Executive Office: Human Services</b>			
Secretary of Human Services	\$3,246,667,935	\$334,500,000	\$3,581,167,935
Division of Health Care Finance and Policy	\$12,498,208	\$0	\$12,498,208
Mass Commission for the Blind	\$3,102,400	\$0	\$3,102,400
Mass Rehabilitation Commission	\$3,210,000	\$2,000,000	\$5,210,000
Mass Commission for the Deaf	\$164,000	\$175,000	\$339,000
Office of Child Care Services	\$198,717,041	\$0	\$198,717,041
Chelsea Soldiers' Home	\$10,625,000	\$207,000	\$10,832,000
Holyoke Soldiers' Home	\$10,695,685	\$967,000	\$11,662,685
Dept of Youth Services	\$5,513,711	\$0	\$5,513,711
Dept of Transitional Assistance	\$406,375,128	\$3,000,000	\$409,375,128
Dept of Public Health	\$78,963,510	\$59,816,767	\$138,780,277
Dept of Public Health	\$0	\$0	\$0
Dept of Social Services	\$262,704,143	\$3,000,000	\$265,704,143
Dept of Youth Services	\$0	\$200,000	\$200,000
Dept of Mental Health	\$99,488,083	\$4,625,000	\$104,113,083
Dept of Mental Retardation	\$428,179,260	\$100,000	\$428,279,260
<b>TOTALS:</b>	<b>\$4,766,904,104</b>	<b>\$408,590,767</b>	<b>\$5,175,494,871</b>
<b>Executive Office: Transportation</b>			
Secretary of Transportation	\$670,736	\$27,344	\$698,080
Mass Aeronautics Commission	\$390,545	\$0	\$390,545
Mass Highway	\$8,252,587	\$0	\$8,252,587
<b>TOTALS:</b>	<b>\$9,313,868</b>	<b>\$27,344</b>	<b>\$9,341,212</b>
<b>Board of Library Commissioners</b>			
Board of Library Commissioners	\$0	\$0	\$0
<b>TOTALS:</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Labor, Education and Development</b>			
Office of Director of Labor	\$1,541,623	\$152,850	\$1,694,473
Dept of Industrial Accidents	\$19,343,740	\$0	\$19,343,740
Labor Relations Commission	\$250	\$0	\$250
Board of Conciliation & Arbitration	\$84,210	\$0	\$84,210
Office of Communities and Development	\$1,551,500	\$1,500,000	\$3,051,500

## Chap. 149

Revenue Source	Unrestricted Non-Tax	Restricted Non-Tax	Total Non-Tax
Director of Consumer Affairs and Business Reg.	\$0	\$0	\$0
Secretary of Economic Affairs	\$5,200	\$0	\$5,200
Division of Banks	\$15,238,294	\$0	\$15,238,294
Division of Insurance	\$58,354,418	\$0	\$58,354,418
Division of Registration	\$10,788,071	\$0	\$10,788,071
Division of Standards	\$1,282,900	\$808,900	\$2,091,800
Dept of Public Utilities	\$15,598,946	\$75,000	\$15,673,946
Alcohol Beverages Control Commission	\$3,385,590	\$0	\$3,385,590
State Racing Commission	\$4,946,179	\$0	\$4,946,179
Division of Energy Resources	\$701,081	\$0	\$701,081
Department of Education	\$9,821,943	\$0	\$9,821,943
Higher Education	\$32,491,762	\$529,843	\$33,021,605
University of Massachusetts	\$56,386,339	\$0	\$56,386,339
<b>TOTALS:</b>	<b>\$231,522,045</b>	<b>\$3,066,593</b>	<b>\$234,588,638</b>
Executive Office of Public Safety			
Secretary of Public Safety	\$1,000	\$11,228,980	\$11,229,980
Chief Medical Examiner	\$0	\$1,000,000	\$1,000,000
Criminal History Systems Board	\$9,800,000	\$185,000	\$9,985,000
Dept of State Police	\$1,007,000	\$17,250,329	\$18,257,329
Criminal Justice Training Council	\$0	\$1,161,500	\$1,161,500
Dept of Public Safety	\$17,387,434	\$930,000	\$18,317,434
Dept of Fire Services	\$114,624	\$0	\$114,624
Registry of Motor Vehicles	\$427,676,200	\$10,000,000	\$437,676,200
Merit Rating Board	\$24,000	\$0	\$24,000
Sex Offender Registry Board	\$1,000	\$750,000	\$751,000
Military Division	\$1,600	\$400,000	\$401,600
Emergency Management Agency	\$748,684	\$0	\$748,684
Dept of Corrections	\$10,523,080	\$5,600,000	\$16,123,080
Sheriff's Department Franklin	\$340,500	\$1,400,000	\$1,740,500
Sheriff's Department Berkshire	\$26,000	\$0	\$26,000
Sheriff's Department Berkshire	\$0	\$0	\$0
Sheriff's Department Berkshire	\$0	\$150,000	\$150,000
Sheriff's Department Essex	\$832,687	\$2,000,000	\$2,832,687
Sheriff's Department Hampden	\$418,287	\$920,000	\$1,338,287

**Chap. 149**

Revenue Source	Unrestricted Non-Tax	Restricted Non-Tax	Total Non-Tax
Sheriff's Department Middlesex	\$182,000	\$925,000	\$1,107,000
Sheriff's Department Hampshire	\$188,750	\$163,000	\$351,750
Sheriff's Department Worcester	\$184,800	\$0	\$184,800
Parole Board	\$10,000	\$600,000	\$610,000
Sheriff's Department Association	\$0	\$0	\$0
<b>TOTALS:</b>	<b>\$469,467,646</b>	<b>\$54,663,809</b>	<b>\$524,131,455</b>
Executive Office of Elder Affairs			
Secretary of Elder Affairs	\$28,044,746	\$0	\$28,044,746
<b>TOTALS:</b>	<b>\$28,044,746</b>	<b>\$0</b>	<b>\$28,044,746</b>
Legislature			
House of Representatives	\$0	\$0	\$0
Joint Legislative	\$0	\$0	\$0
Senate	\$0	\$0	\$0
<b>TOTALS:</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
Taxes			
Taxation	\$13,580,536,130	\$0	\$13,580,536,130
<b>TOTALS:</b>	<b>\$13,580,536,130</b>	<b>\$0</b>	<b>\$13,580,536,130</b>
Total Tax and Non-Tax Revenue:	\$20,788,402,353	\$1,211,639,113	\$22,000,041,466

**SECTION 2.**

**JUDICIARY.**

*Supreme Judicial Court.*

0320-0003	For the operation of the supreme judicial court, including salaries of the chief justice and the 6 associate justices	\$6,405,521
0320-0010	For the operation of the clerk's office of the supreme judicial court for Suffolk County	\$1,028,857
0321-0001	For the operation of the commission on judicial conduct	\$478,153
0321-0100	For the services of the board of bar examiners	\$1,044,803

*Committee for Public Counsel Services.*

0321-1500	For the operation of the committee for public counsel services as authorized by chapter 211D of the General Laws; provided that the committee shall submit a report to the clerks of the house of representatives and senate, not later than January 31, 2005 that shall include, but not be limited to the following: (a)	
-----------	----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	--

	the number of clients assisted by the committee in the prior fiscal year; (b) any proposed expansion of legal services delineated by type of service, target population, and cost; (c) the total number of persons who received legal services by said committee, by type of case and geographic location; (d) the costs for services rendered per client, by type of case and geographic location; (e) the amount paid, if any, to the committee by clients for services rendered by type of case and geographic location; (f) the average cost for services rendered by said committee by type of case; (g) the average number of hours spent per attorney or staff per type of case; and (h) the feasibility of the implementation of a flat rate compensation system based on the type of case . . . . .	\$16,030,080
0321-1505 For	additional costs of the public defender division, including the costs of hiring new public defender attorney positions and the establishment of an additional SDP office; provided, that no funds from this appropriation shall support existing costs associated with line item 0321-1500; provided further, that said positions shall be assigned to existing committee for public counsel services offices in Springfield, Lowell, Worcester, Salem, New Bedford and Brockton; provided further, that said committee shall submit a report to the house and senate committees on ways and means not later than January 31, 2005 on the efficiencies gained from the additional resources provided in this item; provided further, that said report shall include, but not be limited to the following: (1) the number of assignment of counsel that this appropriation has shifted from private bar advocates to the public defender division since the effective date of this act, (2) the savings the commonwealth has realized from this appropriation since the effective date of this act, and (3) number of public defender positions filled and the location of the SDP office . . . . .	\$646,189
0321-1510 For	compensation paid to private counsel assigned to criminal and civil cases under subsection (b) of section 6 of chapter 211D of the General Laws, pursuant to section 12 of said chapter 211D; provided, that not more than \$1,000,000 of the sum appropriated in this item may be expended for services rendered before fiscal year 2005; and provided further, that the rates of compensation paid for private counsel services from this item shall be the same as the rates paid in fiscal year 2004 . . . . .	\$67,404,445

Chap. 149

0321-1518	The chief counsel for the committee for public services may expend an amount not to exceed \$750,000 from revenues collected from fees charged for attorney representation of indigent clients; provided however, that said revenues credited to this account shall only be those revenues in excess of the amounts for the fees collected in fiscal year 2004 as calculated on a monthly basis in addition to revenues generated pursuant to the Middlesex Indigency Verification Pilot Program .....	\$750,000
0321-1520	For fees and costs as defined in section 27A of chapter 261 of the General Laws, as ordered by a justice of the appeals court or a justice of a department of the trial court of the commonwealth on behalf of indigent persons, as defined in said section 27A of said chapter 261; provided, that not more than \$500,000 of the sum appropriated in this item may be expended for services rendered before fiscal year 2005 .....	\$6,428,967
0321-1600	For the Massachusetts Legal Assistance Corporation to provide legal representation for indigent or otherwise disadvantaged residents of the commonwealth; provided, that notwithstanding section 9 of chapter 221A of the General Laws, \$1,190,129 shall be expended for the disability benefits project, \$544,286 shall be expended for the Medicare Advocacy Project, and \$2,490,993 shall be expended for the Battered Women's Legal Assistance Project; provided further, that the corporation shall submit a report to the house and senate committees on ways and means not later than January 30, 2005 that shall include, but not be limited to the following: (a) the number of persons said programs assisted in the prior fiscal year; (b) any proposed expansion of legal services delineated by type of service, target population, and cost; and (c) the total number of indigent or otherwise disadvantaged residents of the commonwealth who received services by said corporation, by type of case and geographic location; and provided further, that the corporation may contract with any organization for the purpose of providing the representation .....	\$7,564,142
0321-2000	For the operation of the mental health legal advisors committee and for certain programs for the indigent mentally ill, as provided in section 34E of chapter 221 of the General Laws ...	\$501,085
0321-2100	For the Massachusetts correctional legal services committee .....	\$500,000

Chap. 149

0321-2205 For the expenses of the social law library located in Suffolk county ..... \$1,704,671

Appeals Court.

0322-0100 For the appeals court, including the salaries, traveling allowances and expenses of the chief justice, recall judges and the associate justices, prior appropriation continued ..... \$9,036,340

Trial Court.

0330-0101 For the salaries of the justices of the superior court department of the trial court; provided, that the chief justice for administration and management shall provide written notification to the house and senate committees on ways and means of any transfers of funds from this item to any other item of appropriation within 30 days of such transfer ..... \$8,585,047

0330-0102 For the salaries of the justices of the district court department of the trial court; provided, that the chief justice for administration and management shall provide written notification to the house and senate committees on ways and means of any transfers of funds from this item to any other item of appropriation within 30 days of such transfer ..... \$17,597,934

0330-0103 For the salaries of the justices of the probate and family court department of the trial court; provided, that the chief justice for administration and management shall provide written notification to the house and senate committees on ways and means of any transfers of funds from this item to any other item of appropriation within 30 days of such transfer ..... \$5,643,572

0330-0104 For the salaries of the justices of the land court department of the trial court; provided, that the chief justice for administration and management shall provide written notification to the house and senate committees on ways and means of any transfers of funds from this item to any other item of appropriation within 30 days of such transfer ..... \$681,384

0330-0105 For the salaries of the justices of the Boston municipal court; provided, that the chief justice for administration and management shall provide written notification to the house and senate committees on ways and means of any transfers of funds from this item to any other item of appropriation within 30 days of such transfer ..... \$2,598,593

Chap. 149

0330-0106	For the salaries of the justices of the housing court department of the trial court; provided, that the chief justice for administration and management shall provide written notification to the house and senate committees on ways and means of any transfers of funds from this item to any other item of appropriation within 30 days of such transfer . . . . .	\$1,132,492
0330-0107	For the salaries of the justices of the juvenile court department of the trial court; provided, that the chief justice for administration and management shall provide written notification to the house and senate committees on ways and means of any transfers of funds from this item to any other item of appropriation within 30 days of such transfer . . . . .	\$4,628,579
0330-0300	For the central administration of the trial court, including costs associated with trial court non-employee services, trial court dental and vision health plan agreement, jury expenses, trial court law libraries, statewide telecommunications, private and municipal court rental and leases, operation of courthouse facilities, witness fees, printing expenses, equipment maintenance and repairs, court interpreter program, and insurance and chargeback costs; provided, that funds may be expended for the judicial training institute; provided further, that the amount of increased compensation to certified private counsel appointed by the committee for public counsel services ordered by any court under Supreme Judicial Court Rule 3.10, section 5, shall be paid from this item; provided further, that 50 per cent of all fees payable pursuant to Massachusetts Rules of Criminal Procedure 15(d) and 30(c)(8) shall be paid from this item; provided further, that notwithstanding section 9A of chapter 30, or any general or special law to the contrary, the rights afforded to a veteran, pursuant to said section 9A of said chapter 30, shall also be afforded to any veteran, as so defined, who holds a trial court office or position in the service of the commonwealth not classified under chapter 31, other than an elective office, an appointive office for a fixed term or an office or position under section 7 of chapter 30, and who (1) has held the office or position for not less than 1 year and (2) has 30 years of total creditable service to the commonwealth, as defined in chapter 32; provided further, that not less than \$100,000 shall be expended for the implementation of a changing lives through literature program; provided further, that not less than	

\$100,000 shall be expended from this item for a contract with Massachusetts General Hospital for a research program on abused children; provided further, that the chief justice for administration and management of the trial court shall make a report to the general court relative to the annual cost of maintaining the court system's electronic equipment and systems and identify means to reduce the costs; provided further, that the report shall include, but not be limited to the following: an analysis of current equipment maintenance service contracts, a review of alternative equipment maintenance programs which, if implemented, would result in cost savings, better management of the equipment repair process, and enhanced equipment protection; provided further that in preparing said report the chief justice for administration and management may utilize the services of appropriate third parties knowledgeable in equipment service contracts; provided further, that the chief justice for administration and management shall file said report with the house and senate committees on ways and means on or before October 1, 2004; provided further, that notwithstanding any general or special law or regulation to the contrary, the chief justice of administration and management of the trial court, in consultation with the state secretary, shall, not later than October 31, 2004, issue a request for purchase through the competitive bidding process for the provision of public records storage, except those records that receive federal reimbursement, for all state agencies within the jurisdiction of the trial court in order to achieve cost savings including, but not limited to, those associated with greater efficiencies in the use and payment of records storage, reduction in private office lease costs for administrative personnel, and for more efficient and accessible use of public office space by displacing records with administrative personnel. The chief justice shall, in consultation with the state secretary, report, not later than March 31, 2005, a plan to improve public records storage and office space efficiencies to the joint committee on state administration and to the house and senate committees on ways and means; provided further, that the trial court shall submit a report to the victim and witness assistance board detailing the amount of assessments imposed within each court by a justice or clerk-magistrate during the

previous calendar year pursuant to section 8 of chapter 258B of the General Laws; provided further, that said report shall include, but not be limited to, the number of cases in which said assessment was reduced or waived by a judge or clerk-magistrate within said courts; provided further, that said report shall be submitted to the victim and witness assistance board on or before January 14, 2005; provided further, that notwithstanding any general or special law to the contrary, the chief justice for administration and management shall not transfer any criminal or civil cases from the third district court of Essex at Ipswich prior to June 30, 2005; provided further, that said chief justice shall submit a report to the house and senate chairmen of the joint committee on the judiciary not later than October 1, 2004 detailing a plan to provide for the closure of the third district court of Essex at Ipswich; and provided further, that said report shall include, but not be limited to, transfer of personnel, reallocation of resources, the impact on other district courts resulting from the closure of said court, and other factors that may affect implementation of said closure . . . . . \$103,671,838

0330-0317 For the operation and expenses of the Massachusetts sentencing commission, pursuant to chapter 211E of the General Laws . . . . \$232,756

0330-0410 For alternative dispute resolution services for the trial court; provided, that such services shall be made available to the extent possible in connection with child care, protection and custody proceedings in juvenile and probate courts; provided further that not less than \$44,337 shall be expended for North Central Court Services, Inc.; provided further, that not less than \$40,000 shall be expended for the North Shore Community Mediation Program in Salem; provided further, that not less than \$48,032 shall be expended for Metropolitan Mediation Services; provided further, that not less than \$36,947 shall be expended for Community Mediation of Worcester; provided further, that not less than \$62,811 shall be expended for Mediation Works, Inc; provided further, that not less than \$50,000 shall be expended for Quabbin Mediation in Athol; provided further, that not less than \$25,863 shall be expended for the Mediation and Training Collaborative of Franklin County in Greenfield; provided further, that not less than \$50,000 shall be expended for Framingham Court Mediation Services; provided further, that

	not less than \$42,737 shall be expended for Dispute Resolution Services, Inc., in Springfield district court; provided further, that not less than \$25,863 shall be expended for the Housing Services and Mediation Program operated by the Berkshire County Regional Housing Authority in Pittsfield; provided further, that not less than \$50,000 shall be expended for the Cape Cod Dispute Resolution Center; provided further, that not less than \$50,000 shall be expended for the Community Dispute Settlement Center, Inc., of Cambridge; provided further, that not less than \$29,558 shall be expended for Berkshire Mediation Services inc.; provided further, that not less than \$48,031 shall be expended for the Somerville Mediation Program; provided further, that not less than \$48,032 shall be expended for the Middlesex Multi-door Court House Program; and provided further that not less than \$30,000 shall be expended for the Martha's Vineyard Mediation Program .....	\$800,000
0330-0441	For permanency mediation services in the probate and juvenile courts .....	\$476,598
0330-2200	For the rental of county court facilities, in accordance with section 4 of chapter 29A of the General Laws; provided, that all county facilities shall be reimbursed at 100 per cent from this item in fiscal year 2005 .....	\$9,068,874
0330-3200	For the court security program, including personnel and expenses; provided, that the chief justice for administration and management shall submit a report to the house and senate committees on ways and means not later than January 31, 2005, detailing the number of court officers and security personnel located in each trial court of the commonwealth ...	\$49,967,224
0330-3333	The chief justice for administration and management may expend an amount not to exceed \$17,000,000 from fees charged and collected pursuant to section 3 of chapter 90C, chapter 185, section 22 of chapter 218 and sections 2, 4A, 4C, 39 and 40 of chapter 262 of the General Laws; provided, that said chief justice shall only expend or allocate funds from this item to the seven departments of the trial court for the operation of said departments; provided further, that any expenditures or allocations shall be made in accordance with schedules submitted to the house and senate committees on ways and means 30 days prior to said expenditures or allocations; provided further, that the only revenue available	

	for expenditure in this item for fiscal year 2005 shall be revenue collected from said fees in excess of the amount collected and deposited into the General Fund in fiscal year 2003 from said fees; provided further, that no such allocation shall occur until said schedules have been approved by said committees; provided further, that said fees shall continue to be transmitted to the treasurer for deposit into the General Fund prior to the expenditure authorized by this item; and provided further, that notwithstanding any general or special law to the contrary, for the purpose of accommodating timing discrepancies between the receipt of revenues and related expenditures, said chief justice may incur expenses and the comptroller shall certify for payments amounts not to exceed the lower of one half of this authorization or the most recent revenue estimate therefor as reported in the state accounting system . . . . .	\$17,000,000
0330-3334	The chief justice for administration and management may expend an amount not to exceed \$18,000,000 from fees charged and collected pursuant to section 87A of chapter 276 of the General Laws; provided, that said chief justice shall only expend or allocate funds from this item to the district court and Boston Municipal Court departments of the trial court for the operation of said departments; provided further, that any expenditures or allocations shall be made in accordance with schedules submitted to the house and senate committees on ways and means 30 days prior to said expenditures or allocations; provided however, that said chief justice shall allocate or expend said funds authorized herein in a manner that accounts for the individual district court's compliance with section 13 of chapter 300 of the acts of 2002; and provided further, that said fees shall continue to be transmitted to the treasurer for deposit into the General Fund prior to the expenditure authorized by this item . . . . .	\$18,000,000
<i>Superior Court Department.</i>		
0331-0100	For the administrative office of the superior court department . . . .	\$6,015,097
0331-0300	For medical malpractice tribunals established in accordance with the provisions of section 60B of chapter 231 of the General Laws . . . . .	\$59,323

---

**Chap. 149**

0331-2100	For the Barnstable superior court; provided, that the clerk of the court shall have responsibility for the internal administration of his office, including personnel, staff services and record keeping .....	\$689,500
0331-2200	For the Berkshire superior court; provided, that the clerk of the court shall have responsibility for the internal administration of his office, including personnel, staff services and record keeping .....	\$194,011
0331-2300	For the Bristol superior court; provided, that the clerk of the court shall have responsibility for the internal administration of his office, including personnel, staff services and record keeping .....	\$826,697
0331-2400	For the Dukes superior court; provided, that the clerk of the court shall have responsibility for the internal administration of his office, including personnel, staff services and record keeping .....	\$154,522
0331-2500	For the Essex superior court; provided, that the clerk of the court shall have responsibility for the internal administration of his office, including personnel, staff services and record keeping .....	\$1,393,927
0331-2600	For the Franklin superior court; provided, that the clerk of the court shall have responsibility for the internal administration of his office, including personnel, staff services and record keeping .....	\$288,556
0331-2700	For the Hampden superior court; provided, that the clerk of the court shall have responsibility for the internal administration of his office, including personnel, staff services and record keeping .....	\$1,240,186
0331-2800	For the Hampshire superior court; provided, that the clerk of the court shall have responsibility for the internal administration of his office, including personnel, staff services and record keeping .....	\$298,680
0331-2900	For the Middlesex superior court; provided, that the clerk of the court shall have responsibility for the internal administration of his office, including personnel, staff services and record keeping .....	\$3,111,751
0331-3000	For the Nantucket superior court; provided, that the clerk of the court shall have responsibility for the internal administration of his office, including personnel, staff services and record keeping .....	\$130,215

---

## Chap. 149

0331-3100	For the Norfolk superior court; provided, that the clerk of the court shall have responsibility for the internal administration of his office, including personnel, staff services and record keeping .....	\$1,142,317
0331-3200	For the Plymouth superior court; provided, that the clerk of the court shall have responsibility for the internal administration of his office, including personnel, staff services and record keeping .....	\$1,047,213
0331-3300	For the Suffolk superior civil court; provided, that the clerk of the court shall have responsibility for the internal administration of his office, including personnel, staff services and record keeping .....	\$2,863,194
0331-3400	For the Suffolk superior criminal court; provided, that the clerk of the court shall have responsibility for the internal administration of his office, including personnel, staff services and record keeping .....	\$1,868,410
0331-3404	For an education and community outreach pilot program to be administered in the Suffolk superior criminal court .....	\$178,902
0331-3500	For the Worcester superior court; provided, that the clerk of the court shall have responsibility for the internal administration of his office, including personnel, staff services and record keeping .....	\$1,030,766

### *District Court Department.*

0332-0100	For the administrative office of the district court department, including a civil conciliation program .....	\$834,311
0332-1100	For the first district court of Barnstable .....	\$518,876
0332-1200	For the second district court of Barnstable at Orleans .....	\$372,891
0332-1203	For the third district court of Barnstable at Falmouth .....	\$372,553
0332-1300	For the district court of northern Berkshire at Adams, North Adams and Williamstown .....	\$242,317
0332-1400	For the district court of central Berkshire at Pittsfield .....	\$408,035
0332-1500	For the district court of southern Berkshire at Great Barrington and Lee .....	\$225,680
0332-1600	For the first district court of Bristol at Taunton .....	\$686,816
0332-1700	For the second district court of Bristol at Fall River .....	\$851,953
0332-1800	For the third district court of Bristol at New Bedford .....	\$920,113
0332-1900	For the fourth district court of Bristol at Attleboro .....	\$567,610
0332-2000	For the district court of Edgartown .....	\$164,337
0332-2100	For the first district court of Essex at Salem .....	\$679,564

---

**Chap. 149**

0332-2300 For the third district court of Essex at Ipswich .....	\$192,474
0332-2400 For the central district court of northern Essex at Haverhill .....	\$578,348
0332-2500 For the district court of eastern Essex at Gloucester .....	\$290,243
0332-2600 For the district court of Lawrence .....	\$1,064,825
0332-2700 For the district court of southern Essex at Lynn .....	\$784,170
0332-2800 For the district court of Newburyport .....	\$477,982
0332-2900 For the district court of Peabody .....	\$488,182
0332-3000 For the district court of Greenfield .....	\$332,497
0332-3100 For the district court of Orange .....	\$273,267
0332-3200 For the district court of Chicopee .....	\$378,616
0332-3300 For the district court of Holyoke .....	\$426,162
0332-3400 For the district court of eastern Hampden at Palmer .....	\$293,203
0332-3500 For the district court of Springfield .....	\$1,659,121
0332-3600 For the district court of western Hampden at Westfield .....	\$279,891
0332-3700 For the district court of Hampshire at Northampton .....	\$601,866
0332-3800 For the district court of eastern Hampshire at Ware .....	\$161,045
0332-3900 For the district court of Lowell .....	\$1,172,204
0332-4000 For the district court of Somerville .....	\$917,648
0332-4100 For the district court of Newton .....	\$356,301
0332-4200 For the district court of Marlborough .....	\$288,668
0332-4300 For the district court of Natick .....	\$407,025
0332-4400 For the first district court of eastern Middlesex at Malden .....	\$558,598
0332-4500 For the second district court of eastern Middlesex at Waltham ....	\$474,443
0332-4600 For the third district court of eastern Middlesex at Cambridge ....	\$1,189,409
0332-4700 For the fourth district court of eastern Middlesex at Woburn .....	\$656,440
0332-4800 For the first district court of northern Middlesex at Ayer .....	\$358,348
0332-4900 For the first district court of southern Middlesex at Framingham ...	\$752,631
0332-5000 For the district court of central Middlesex at Concord .....	\$378,254
0332-5100 For the district court of Nantucket .....	\$117,003
0332-5200 For the district court of northern Norfolk at Dedham .....	\$539,364
0332-5300 For the district court of East Norfolk at Quincy .....	\$1,522,349
0332-5400 For the district court of western Norfolk at Wrentham .....	\$453,890
0332-5500 For the district court of southern Norfolk at Stoughton .....	\$587,885
0332-5600 For the municipal court of Brookline .....	\$335,715
0332-5700 For the district court of Brockton .....	\$1,083,112
0332-5800 For the second district court of Plymouth at Hingham .....	\$615,709
0332-5900 For the third district court of Plymouth at Plymouth .....	\$764,724
0332-6000 For the fourth district court of Plymouth at Wareham .....	\$644,612
0332-6300 For the district court of Chelsea; provided, that notwithstanding the provisions of any general or special law to the contrary,	

said district court shall be the permanent location for the northern trial session to handle six person jury cases; provided further, that all personnel within said district court whose duties relate to said northern trial session shall report to the clerk magistrate of said district court; and provided further, that the clerk magistrate shall utilize whatever space within the facility at-large he deems necessary to comply with S.J.C.

Rule 3:12, Canon 3(A)6 .....	\$781,820
0332-6900 For the central district court of Worcester .....	\$1,491,891
0332-7000 For the district court of Fitchburg .....	\$488,456
0332-7100 For the district court of Leominster .....	\$384,268
0332-7200 For the district court of Winchendon .....	\$134,005
0332-7300 For the first district court of northern Worcester at Gardner .....	\$341,821
0332-7400 For the first district court of eastern Worcester at Westborough ...	\$388,224
0332-7500 For the second district court of eastern Worcester at Clinton .....	\$250,087
0332-7600 For the district court of southern Worcester at Dudley .....	\$461,990
0332-7700 For the second district court of southern Worcester at Uxbridge ...	\$307,603
0332-7800 For the third district court of southern Worcester at Milford .....	\$294,137
0332-7900 For the district court of western Worcester at East Brookfield .....	\$307,403

*Probate and Family Court Department.*

0333-0002 For the administrative office of the probate and family court department; provided, that the case manager shall meet monthly with the department of social services and shall report quarterly to the house and senate committees on ways and means on the backlog of cases in the probate court and the parties' progress made in such backlog each month .....	\$1,289,406
0333-0100 For the Barnstable probate court .....	\$967,517
0333-0150 For the operation of a child and parents program in the Barnstable probate court .....	\$79,495
0333-0200 For the Berkshire probate court .....	\$508,244
0333-0300 For the Bristol probate court .....	\$1,596,935
0333-0400 For the Dukes probate court .....	\$120,603
0333-0500 For the Essex probate court .....	\$1,286,932
0333-0600 For the Franklin probate court .....	\$512,347
0333-0700 For the Hampden probate court .....	\$1,911,173
0333-0711 For the operation of the Berkshire, Franklin, Hampden and Hampshire family court clinic to be administratively located in the city of Springfield and to serve the Berkshire, Franklin, Hampden and Hampshire divisions of the probate court .....	\$39,748

---

## Chap. 149

0333-0800 For the Hampshire probate court .....	\$636,139
0333-0900 For the Middlesex probate court .....	\$3,330,136
0333-0911 For the Middlesex probate court family services clinic .....	\$193,762
0333-1000 For the Nantucket probate court .....	\$173,104
0333-1100 For the Norfolk probate court .....	\$1,494,054
0333-1111 For the Norfolk probate court family services clinic .....	\$139,772
0333-1200 For the Plymouth probate court .....	\$1,340,027
0333-1300 For the Suffolk probate court .....	\$2,208,559
0333-1313 For the Suffolk probate community access program of communi- ty outreach and education; provided, that said program shall be targeted at low income persons who experience educational and language barriers to court access; and provided further, that said program shall be administered by the register of probate of Suffolk county .....	\$189,041
0333-1400 For the Worcester probate court .....	\$1,658,651
0333-1411 For the Worcester probate court family services clinic .....	\$169,362

### *Land Court Department.*

0334-0001 For the operation of the land court .....	\$2,350,474
-----------------------------------------------------	-------------

### *Boston Municipal Court Department.*

0335-0001 For the central division of the Boston municipal court department including the administrative costs of said court department ...	\$3,185,464
0335-0100 For the Brighton division of the Boston municipal court department .....	\$326,154
0335-0200 For the Charlestown division of the Boston municipal court department .....	\$232,655
0335-0300 For the Dorchester division of the Boston municipal court department .....	\$1,149,514
0335-0400 For the East Boston division of the Boston municipal court department .....	\$582,745
0335-0500 For the Roxbury division of the Boston municipal court department .....	\$1,116,770
0335-0600 For the South Boston division of the Boston municipal court department .....	\$407,439
0335-0700 For the West Roxbury division of the Boston municipal court department .....	\$733,061

### *Housing Court Department.*

0336-0002 For the administrative office of the housing court department .....	\$94,546
-------------------------------------------------------------------------------	----------

---

## Chap. 149

0336-0100 For the Boston housing court .....	\$855,210
0336-0200 For the western division of the housing court .....	\$634,164
0336-0300 For the Worcester county housing court .....	\$636,784
0336-0400 For the southeastern division of the housing court .....	\$1,113,400
0336-0500 For the northeastern division of the housing court .....	\$596,525

### *Juvenile Court Department.*

0337-0002 For the administrative office of the juvenile court department .....	\$886,387
0337-0100 For the Suffolk county juvenile courts .....	\$1,241,045
0337-0200 For the Bristol juvenile court .....	\$1,239,671
0337-0300 For the Hampden county juvenile courts; provided further that \$145,841 shall be expended for the CASA program in the Springfield Juvenile Court .....	\$1,288,096
0337-0400 For the Worcester county juvenile courts; provided further that \$72,920 shall be expended for the CASA program in the Worcester Juvenile Court .....	\$1,075,642
0337-0500 For the Barnstable county juvenile court; including the Barnstable county juvenile court located in the town of Plymouth .....	\$732,193
0337-0600 For the Essex county juvenile courts; provided further that \$91,150 shall be expended for the CASA program in the Lawrence Juvenile Court .....	\$1,047,472
0337-0700 For the Hampshire and Franklin counties juvenile courts; provided further that \$77,478 shall be expended for the Franklin/Hampshire CASA Program, including Northampton Greenfield, Orange and Ware District Courts .....	\$681,095
0337-0800 For the Plymouth county juvenile courts; provided further that \$72,920 shall be expended for the CASA program in the Plymouth County Juvenile Court .....	\$784,881
0337-0900 For the Berkshire county juvenile courts; provided further that \$54,690 shall be expended for a Berkshire CASA program in the Berkshire county Juvenile Court .....	\$495,804
0337-1000 For the Middlesex county juvenile courts .....	\$1,096,081
0337-1100 For the Norfolk county juvenile courts .....	\$910,264

### *Office of the Commissioner of Probation.*

0339-1001 For the office of the commissioner of probation; provided, that notwithstanding the provisions of any general or special law, rule or regulation to the contrary, said commissioner, subject	
--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	--

to appropriation, shall have exclusive authority to appoint, dismiss, assign and discipline probation officers, associate probation officers, probation officers-in-charge, assistant chief probation officers and chief probation officers; provided further, that said associate probation officers shall only perform in-court functions and shall assume the in-court duties of the currently employed probation officers who shall be reassigned within the probation service subject to collective bargaining agreements to perform intensive, community-based supervision of probationers, including the provisions of intensive supervision and community restraint services as described in item 0339-1004; provided further, that notwithstanding the provisions of any general or special law, rule or regulation to the contrary, probation officer personnel and probation clerical support staff assigned to the courts shall be provided with suitable office space in their current location in and around the various divisions and departments of the trial court, as the case may be, or in suitable office space as appropriate, with the advice and consent of the commissioner; provided further, that said office shall enter into an interagency service agreement with the department of revenue to verify income data and to utilize the departments wage reporting and bank match system for the purpose of weekly tape-matching, so-called, for the purposes of determining an individual's eligibility for appointment of indigent counsel, as defined in chapter 211D of the General Laws; provided further, that said office shall submit quarterly reports to the house and senate committees on ways and means detailing the progress of eligibility verification with said department; and provided further, that said report shall include, but not limited to, the number of individuals to be found misrepresenting assets, revenue generated through collection of indigent client fees, the average indigent client fee that each court division collects per case since the effective date of this act, recommendations on improvements in verifying eligibility for counsel and other pertinent information to ascertain the effectiveness of verification . . . \$114,890,795

0339-1003 For the operation of the trial court office of community corrections, including the costs of personnel . . . \$4,049,087

0339-1004 For the cost of intensive supervision and community corrections programs; provided, that the programs shall include, but not

be limited to, tracking, community service, educational assistance, drug and alcohol testing and treatment, curfew enforcement, home confinement, day reporting, means-tested fines, restitution, and community incapacitation or restraint; provided further, that the number of placements in the programs shall not exceed a daily average goal of 5,000 intensively-supervised probationers; provided further, that funds from this item shall be expended to cover the costs of the programs that are undertaken and administered by court probation offices and county sheriffs' offices; provided further, that said funds shall be expended for the purpose of providing said programs in Barnstable, Berkshire, Bristol, Dukes, Essex, Franklin, Hampden, Hampshire, Middlesex, Nantucket, Norfolk, Plymouth, Suffolk, and Worcester counties in fiscal year 2005; provided further, that the executive director of the office of community corrections of the trial court shall enter into interagency service agreements and memoranda of understanding with the probation offices and sheriffs' offices for the provision of said programs, including the contracting for detention space for probationers arrested for violating probation and awaiting court action and detention space for probationers who have been ordered by the trial court to be supervised at a higher level of restraint; provided further, that said agreements and memoranda shall be entered into at the direction of the executive director; provided further, that the executive director shall submit a spending and management plan for the programs to the house and senate committees on ways and means not later than January 30, 2005; and provided further, that the plan shall include the projected number of probationers to be served by each program and include a description of the oversight and services provided to the probationers ..... \$12,109,135

*Office of the Jury Commissioner.*

0339-2100 For the office of the jury commissioner in accordance with chapter 234A of the General Laws ..... \$1,990,901

*Suffolk District Attorney.*

0340-0100 For the Suffolk district attorney's office, including the victim and witness assistance program, the child abuse and sexual assault

prosecution program, the domestic violence unit and the children's advocacy center; provided, that the office shall submit a report to the house and senate committees on ways and means not later than February 1, 2005 summarizing the number and types of criminal cases managed or prosecuted by the office in calendar year 2004 and the disposition or status thereof which shall be delineated by each jurisdiction of the district, juvenile, probate or superior court in which the cases were managed or prosecuted; provided further, that not more than \$125,000 shall be expended for a North Dorchester safe neighborhood initiative, in Suffolk county; provided further, that 50 per cent of fees payable pursuant to Massachusetts Rules of Criminal Procedure 15 (d) and 30 (c)(8) for appeals taken by the office shall be paid from this item; and provided further, that not more than \$125,000 shall be expended for a safe neighborhood initiative, in Suffolk county; and provided further, that no assistant district attorney shall be paid an annual salary of less than \$35,000 ..... \$13,630,699

*Middlesex District Attorney.*

0340-0200 For the Middlesex district attorney's office, including the victim and witness assistance program, the child abuse and sexual assault prosecution program, and the domestic violence unit; provided, that the office shall submit a report to the house and senate committees on ways and means not later than February 1, 2005 summarizing the number and types of criminal cases managed or prosecuted by said office in calendar year 2004 and the disposition or status thereof which shall be delineated by each jurisdiction of the district, juvenile, probate or superior court in which the cases were managed or prosecuted; provided further, that 50 per cent of fees payable pursuant to Massachusetts Rules of Criminal Procedure 15 (d) and 30 (c)(8) for appeals taken by the office shall be paid from this item; and provided further, that no assistant district attorney shall be paid an annual salary of less than \$35,000 ..... \$10,656,975

*Essex District Attorney.*

0340-0300 For the Essex district attorney's office, including the victim and witness assistance program, the child abuse and sexual assault

prosecution program, and the domestic violence unit; provided, that the office shall submit a report to the house and senate committees on ways and means not later than February 1, 2005 summarizing the number and types of criminal cases managed or prosecuted by the office in calendar year 2004 and the disposition or status thereof which shall be delineated by each jurisdiction of the district, juvenile, probate or superior court in which the cases were managed or prosecuted; provided further, that 50 per cent of fees payable pursuant to Massachusetts Rules of Criminal Procedure 15 (d) and 30 (c)(8) for appeals taken by the office shall be paid from this item; and provided further, that no assistant district attorney shall be paid an annual salary of less than \$35,000 ..... \$6,458,625

*Worcester District Attorney.*

- 0340-0400 For the Worcester district attorney's office, including the victim and witness assistance program, the child abuse and sexual assault prosecution program and the domestic violence unit; provided, that the office shall submit a report to the house and senate committees on ways and means not later than February 1, 2005 summarizing the number and types of criminal cases managed or prosecuted by the office in calendar year 2004 and the disposition or status thereof which shall be delineated by each jurisdiction of the district, juvenile, probate or superior court in which the cases were managed or prosecuted; provided further, that \$75,000 may be expended for financial criminal investigations; provided further, that 50 per cent of fees payable pursuant to Massachusetts Rules of Criminal Procedure 15 (d) and 30 (c)(8) for appeals taken by the office shall be paid from this item; and provided further, that no assistant district attorney shall be paid an annual salary of less than \$35,000 ..... \$6,877,075
- 0340-0410 For the analyses of narcotic drug synthetic substitutes, poisons, drugs, medicines and chemicals at the University of Massachusetts medical school in order to support the law enforcement efforts of the district attorneys, the state police and municipal police departments ..... \$450,000

*Hampden District Attorney.*

0340-0500 For the Hampden district attorney's office, including the victim and witness assistance program, the child abuse and sexual assault prosecution program, and the domestic violence unit; provided, that the office shall submit a report to the house and senate committees on ways and means not later than February 1, 2005 summarizing the number and types of criminal cases managed or prosecuted by the office in calendar year 2004 and the disposition or status thereof which shall be delineated by each jurisdiction of the district, juvenile, probate or superior court in which the cases were managed or prosecuted; provided further, that 50 per cent of fees payable pursuant to Massachusetts Rules of Criminal Procedure 15 (d) and 30 (c)(8) for appeals taken by the office shall be paid from this item; and provided further, that no assistant district attorney shall be paid an annual salary of less than \$35,000 ..... \$6,355,055

*Hampshire/Franklin District Attorney.*

0340-0600 For the Hampshire/Franklin district attorney's office, including the victim and witness assistance program, the child abuse and sexual assault prosecution program, and the domestic violence unit; provided, that the office shall submit a report to the house and senate committees on ways and means not later than February 1, 2005 summarizing the number and types of criminal cases managed or prosecuted by said office in calendar year 2004 and the disposition or status thereof which shall be delineated by each jurisdiction of the district, juvenile, probate or superior court in which the cases were managed or prosecuted; provided further, that 50 per cent of fees payable pursuant to Massachusetts Rules of Criminal Procedure 15 (d) and 30 (c)(8) for appeals taken by the office shall be paid from this item; provided further, that no assistant district attorney shall be paid an annual salary of less than \$35,000; and provided further, that not less than \$150,000 shall be expended for the salaries and expenses of a children's advocacy project ..... \$4,182,722

*Norfolk District Attorney.*

0340-0700 For the Norfolk district attorney's office, including the victim and

witness assistance program, the child abuse and sexual assault prosecution program, and the domestic violence unit; provided, that the office shall submit a report to the house and senate committees on ways and means not later than February 1, 2005 summarizing the number and types of criminal cases managed or prosecuted by said office in calendar year 2004 and the disposition or status thereof which shall be delineated by each jurisdiction of the district, juvenile, probate or superior court in which the cases were managed or prosecuted; provided further, that 50 per cent of fees payable pursuant to Massachusetts Rules of Criminal Procedure 15 (d) and 30 (c)(8) for appeals taken by the office shall be paid from this item; and provided further, that no assistant district attorney shall be paid an annual salary of less than \$35,000 ..... \$6,936,479

*Plymouth District Attorney.*

0340-0800 For the Plymouth district attorney's office, including the victim and witness assistance program, the child abuse and sexual assault prosecution program, and the domestic violence unit; provided, that the office shall submit a report to the house and senate committees on ways and means not later than February 1, 2005 summarizing the number and types of criminal cases managed or prosecuted by the office in calendar year 2004 and the disposition or status thereof which shall be delineated by each jurisdiction of the district, juvenile, probate or superior court in which the cases were managed or prosecuted; provided, that no assistant district attorney shall be paid an annual salary of less than \$35,000; provided further, that the Plymouth county district attorney's office shall employ a special assistant district attorney to specialize in the investigation and prosecution of alleged criminal offenses committed by inmates in state correctional facilities, county and state houses of corrections, and jails; provided further, that interagency service agreements shall be established between the Plymouth county district attorney's office and the office of the district attorneys for Bristol, and the Cape and Islands to equally share the compensation and related expenses of the special assistant; provided further, that

the special assistant shall practice only in those jurisdictions participating in said interagency service agreement; provided further, that 50 per cent of fees payable pursuant to Massachusetts Rules of Criminal Procedure 15 (d) and 30 (c)(8) for appeals taken by the office shall be paid from this item; and provided further, that no expenditures shall be made, on or after the effective date of this act, which would cause the commonwealth's obligation for the purpose of this item to exceed the amount appropriated herein .....\$5,747,214

*Bristol District Attorney.*

0340-0900 For the Bristol district attorney's office, including the victim and witness assistance program, the child abuse and sexual assault prosecution program and the domestic violence unit; provided, that the office shall submit a report to the house and senate committees on ways and means not later than February 1, 2005 summarizing the number and types of criminal cases managed or prosecuted by the office in calendar year 2004 and the disposition or status thereof which shall be delineated by each jurisdiction of the district, juvenile, probate or superior court in which the cases were managed or prosecuted; provided further, that 50 per cent of fees payable pursuant to Massachusetts Rules of Criminal Procedure 15 (d) and 30 (c)(8) for appeals taken by the office shall be paid from this item; and provided further, that no assistant district attorney shall be paid an annual salary of less than \$35,000 .....\$5,938,983

*Cape and Islands District Attorney.*

0340-1000 For the Cape and Islands district attorney's office, including the victim and witness assistance program, the child abuse and sexual assault prosecution program and the domestic violence unit; provided, that \$125,000 shall be expended to support the sex offender management unit pursuant to the provisions in this act; provided further, that 2 prosecutors and administrative support shall be provided to the Cape Cod offender management task force; provided further, that the office shall submit a report to the house and senate committees on ways and means not later than February 1, 2005 summarizing the number and types of criminal cases managed or prosecuted by

the office in calendar year 2004 and the disposition or status thereof which shall be delineated by each jurisdiction of the district, juvenile, probate or superior court in which the cases were managed or prosecuted; provided further, that no assistant district attorney shall be paid an annual salary of less than \$35,000; provided further, that 50 per cent of fees payable pursuant to Massachusetts Rules of Criminal Procedure 15 (d) and 30 (c)(8) for appeals taken by the office shall be paid from this item ; and provided further, that \$20,000 shall be expended for the Cape and Islands child advocacy center ..... \$3,025,129

*Berkshire District Attorney.*

0340-1100 For the Berkshire district attorney's office, including the victim and witness assistance program, the child abuse and sexual assault prosecution program, and the domestic violence unit; provided, that the office shall submit a report to the house and senate committees on ways and means not later than February 1, 2005 summarizing the number and types of criminal cases managed or prosecuted by the office in calendar year 2004 and the disposition or status thereof which shall be delineated by each jurisdiction of the district, juvenile, probate or superior court in which the cases were managed or prosecuted; provided further, that 50 per cent of fees payable pursuant to Massachusetts Rules of Criminal Procedure 15 (d) and 30 (c)(8) for appeals taken by the office shall be paid from this item; and provided further, that no assistant district attorney shall be paid an annual salary of less than \$35,000 ..... \$2,804,526

*District Attorneys Association.*

0340-2100 For the operation of the Massachusetts District Attorneys' Association, including the implementation and related expenses of the district attorneys' office automation and case management and tracking system; provided, that expenses associated with the system may be charged directly to this item; provided further, that the 11 district attorneys of the commonwealth may contribute a portion of their fiscal year 2005 appropriation to the Massachusetts District Attorneys' Association in

order to alleviate the cost of the case management and tracking system as well as the cost of data lines associated with the district attorney's computer network; provided further, that each district attorney shall submit a report to the Massachusetts District Attorneys' Association and the house and senate committees on ways and means delineating all funds expended for the purpose of implementing the case management and tracking system not later than January 30, 2005; provided further, that the report shall include, but not be limited to, an analysis of the total cost of the district attorneys' computer network, the total cost incurred by each district attorney's office, a detailed list of all hardware and software leased, owned or operated by each district attorney, a plan for any purchases to be made in the remainder of fiscal year 2005 and a detailed summary of any policies implemented to contain the costs of the network by either the Massachusetts District Attorneys Association or the individual district attorneys' offices; provided further, that no expenditures shall be made, on or after the effective date of this act, which would cause the commonwealth's obligation for the purpose of this item to exceed the amount appropriated in this item; and provided further, that said association shall submit a report to the house and senate committees on ways and means not later than January 31, 2005 detailing, by district attorney office, all sources of revenue, including, but not limited to, federal and state grants that were received in fiscal year 2004, and the amount of each source of revenue . . . \$1,506,600

0340-2101 For the overtime costs of state police officers assigned to the district attorneys; provided, that costs associated with those officers shall not be funded from item 8100-0007; provided further, that not less than \$261,479 shall be expended at the direction of the district attorney for the Suffolk district; provided further, that not less than \$366,410 shall be expended at the direction of the district attorney for the Middlesex district; provided further, that not less than \$348,894 shall be expended at the direction of the district attorney for the Essex district; provided further, that not less than \$281,208 shall be expended at the direction of the district attorney for the Worcester district; provided further, that not less than \$219,703 shall be expended at the direction

of the district attorney for the Hampden district; provided further, that not less than \$127,953 shall be expended at the direction of the district attorney for the Franklin/Hampshire district; provided further, that not less than \$318,672 shall be expended at the direction of the district attorney for the Norfolk district; provided further, that not less than \$242,316 shall be expended at the direction of the district attorney for the Plymouth district; provided further, that not less than \$229,498 shall be expended at the direction of the district attorney for the Bristol district; provided further, that not less than \$187,750 shall be expended at the direction of the district attorney for the Cape and Islands district; provided further, that not less than \$70,603 shall be expended at the direction of the district attorney for the Berkshire district; and provided further, that no expenditures shall be made on or after the effective date of this act which would cause the commonwealth's obligation for the purpose of this item to exceed the amount appropriated herein . . . . . \$3,379,377

General Fund . . . . . 11.80%

Highway Fund . . . . . 88.20%

0340-8908 For the costs associated with maintaining the association's wide area network . . . . . \$1,285,000

EXECUTIVE.

0411-1000 For the offices of the governor, the lieutenant governor and the governor's council; provided, that the amount appropriated in this item may be used at the discretion of the governor for the payment of extraordinary expenses not otherwise provided for and for transfer to appropriation accounts where the amounts otherwise available may be insufficient; provided further, that not more than \$205,161 shall be spent on the governor's commission on mental retardation; and provided further, that the advisory council on Alzheimer's disease and related disorders, as established in the office of the governor by section 379 of chapter 194 of the acts of 1998, and section 80 of chapter 236 of the acts of 2000, shall continue during fiscal year 2005 . . . . . \$5,135,418

*Secretary Of The Commonwealth.*

0511-0000	For the operation of the office of the secretary; provided, that said office shall submit a report detailing staffing patterns for each program operated by said office; provided further, that said report shall include, but not be limited to, actual and functional job titles by program, compensation rates and lengths of service for each employee; provided further, that said office shall submit said report not later than January 31, 2005 to the house and senate committees on ways and means; and provided further, that the secretary may transfer funds between items 0540-0900, 0540-1000, 0540-1100, 0540-1200, 0540-1300, 0540-1400, 0540-1500, 0540-1600, 0540-1700, 0540-1800, 0540-1900, 0540-2000, 0540-2100 pursuant to an allocation schedule filed with the house and senate committees on ways and means not less than 30 days prior to any such transfer .....	\$6,628,293
0511-0001	The state secretary is hereby authorized to expend revenues not to exceed \$30,000 from the sale of merchandise at the Massachusetts state house gift shop for the purpose of replenishing and restocking gift shop inventory .....	\$30,000
0511-0108	The state secretary acting on behalf of the commonwealth may sell, transfer or license the Division of Corporations' software and related documents pertaining to its web based searching and filing applications, including uniform commercial code software, developed by the department of the secretary and copyrighted by it to other states, multi-state or regional associations or other sovereign governments on such terms or conditions as in his sole discretion reasonably compensates the commonwealth for its interests; provided, that the secretary may retain and expend revenues collected from such sales, licensure or user agreements in an amount not to exceed \$75,000 for technical activities of the corporations division the remainder to be deposited in the General Fund; provided further, that the secretary may also provide web hosting, and on-going support and maintenance to other states, provinces or territories of Canada relative to their UCC and corporate applications; and provided further, that the department of the state secretary may accept credit and debit cards from individuals and corporations filing documents with the department .....	\$75,000

---

**Chap. 149**

0511-0200	For the operation of the state archives division .....	\$530,450
0511-0230	For the operation of the records center .....	\$155,985
0511-0250	For the operation of the archives facility .....	\$416,804
0511-0260	For the operation of the commonwealth museum .....	\$187,390
0511-0420	For the operation of the address confidentiality program .....	\$108,662
0517-0000	For the printing of public documents .....	\$850,107
0521-0000	For the operation of the elections division, including preparation, printing and distribution of ballots and for other miscellaneous expenses for primary and other elections; provided, that the secretary of state may award grants for voter registration and education in the cities of Boston, Springfield and Worcester; provided further, that the registration and education activities may be conducted by community-based voter registration and education organizations; and provided further, that the secretary shall submit a report to the house and senate committees on ways and means not later than January 31, 2005 detailing the amount appropriated for the purposes of providing reimbursements for the costs of extended polling hours from this item to each city or town . . .	\$5,134,177
0521-0001	For the operation of the central voter registration computer system; provided, that a report detailing the status, remaining costs and further implementation requirements of the central voter registration system shall be submitted to the house and senate committees on ways and means not later than January 31, 2005; and provided further, that an annual report detailing voter registration activity shall be submitted to the house and senate committees on ways and means on or before January 31, 2005 .....	\$5,652,971
0524-0000	For providing information to voters .....	\$1,355,744
0526-0100	For the operation of the Massachusetts Historical Commission; provided, that funds may be expended for the Essex National Heritage Commission archives .....	\$792,856
0527-0100	For the operation of the ballot law commission .....	\$16,286
0528-0100	For the operation of the records conservation board .....	\$30,740
0540-0900	For the registry of deeds located in Lawrence in the former county of Essex .....	\$798,927
0540-1000	For the registry of deeds located in Salem in the former county of Essex .....	\$2,517,256
0540-1100	For the registry of deeds in the former county of Franklin .....	\$519,220
0540-1200	For the registry of deeds in the former county of Hampden .....	\$2,083,646
0540-1300	For the registry of deeds in the former county of Hampshire .....	\$539,618

**Chap. 149**

0540-1400	For the registry of deeds located in Lowell in the former county of Middlesex .....	\$1,242,667
0540-1500	For the registry of deeds located in Cambridge in the former county of Middlesex .....	\$3,376,004
0540-1600	For the registry of deeds located in Adams in the former county of Berkshire .....	\$290,775
0540-1700	For the registry of deeds located in Pittsfield in the former county of Berkshire .....	\$470,614
0540-1800	For the registry of deeds located in Great Barrington in the former county of Berkshire .....	\$220,802
0540-1900	For the registry of deeds in the former county of Suffolk .....	\$2,063,774
0540-2000	For the registry of deeds located in Fitchburg in the former county of Worcester .....	\$513,269
0540-2100	For the registry of deeds located in the city of Worcester in the former county of Worcester .....	\$1,964,631

**TREASURER AND RECEIVER-GENERAL.**

*Office of the Treasurer and Receiver General.*

0610-0000	For the office of the treasurer and receiver-general; provided, that the treasurer shall provide computer services required by the teachers' retirement board; provided further, that to the extent that bank fees exceed the amount appropriated in item 0610-0100, the treasurer may, subject to an allocation plan filed in advance with the house and senate committees on ways and means, transfer from this item to said item 0610-0100, an amount sufficient to ensure full payment of the bank fees; provided further, that not less than \$37,000 shall be granted to the elder advocacy organization known as the Silver-Haired Legislature; provided further, that the treasurer's office shall submit a report to the victim and witness assistance board which details the amount of assessments transmitted to the treasurer during the previous calendar year on a monthly basis from the courts, the registrar of motor vehicles and the sheriff or superintendent of any correctional facility pursuant to section 8 of chapter 258B; provided further, that the report shall be submitted to the board on or before January 31, 2005; and provided further, that the treasurer's office shall pay half of the administrative costs of the municipal finance oversight board from this item .....	\$7,091,378
	General Fund .....	90.0%
	Highway Fund .....	10.0%

Chap. 149

0610-0050	For the administration of the alcoholic beverages control commission in its efforts to regulate and control the conduct and condition of traffic in alcoholic beverages; provided, that said commission shall maintain at least one chief investigator and other investigators for the purpose of regulating and controlling the traffic of alcoholic beverages; provided further, that said commission is authorized and directed to work and cooperate with the Alcohol, Tobacco, and Firearms division of the United States Department of Justice and other relevant federal agencies to assist in its efforts to regulate and control the traffic of alcoholic beverages; provided further, that not less than \$60,000 be provided for an additional investigator for Western Massachusetts region; and provided further, that said commission is directed to seek out matching federal dollars and to apply for federal grants that may be available to assist in the enforcement of laws pertaining to the traffic of alcoholic beverages	\$1,826,478
0610-0100	For the payment of bank fees; provided, that the treasurer may transfer funds from this item to item 0610-0000 for one-time, non-recurring expenditures upon certification to the secretary of administration and finance that the remaining balance in this account will be sufficient to make all necessary expenditures	\$3,600,000
	General Fund	90.0%
	Highway Fund	10.0%
0610-0140	For the purpose of funding administrative, transactional and research expenses associated with maintaining and increasing the interest earnings on the Commonwealth's General and Stabilization Fund investments	\$150,000
0610-1500	For tuition payments as required by section 12B of chapter 76 of the General Laws, notwithstanding chapter 29 of the General Laws to the contrary; provided, that the state treasurer may expend in anticipation of revenue amounts necessary to meet payments; and provided further, that the state treasurer shall deduct the amount expended from this account from items 7061-0008 and 0611-5500 and from the amounts specified in section 3, in accordance with said section 12B of said chapter 76.	
0611-1000	For bonus payments to war veterans	\$50,000
0611-5500	For additional assistance to cities and towns to be distributed ac-	

Chap. 149

cording to section 3 and for assistance to certain public entities of the commonwealth which have constructed water pollution abatement facilities; provided, that the distribution to the public entities shall equal \$1,249,948; and provided further, that if there is a conflict between the provisions of the distribution set forth in section 3 and any other provisions of this act, the distribution set forth in section 3 shall control . . \$379,767,936

0611-5510	For reimbursements to cities and towns in lieu of taxes on state-owned land pursuant to sections 13 to 17, inclusive, of chapter 58 of the General Laws . . . . .	\$12,500,000
0611-5800	For distribution to each city and town within which racing meetings are conducted pursuant to section 18D of chapter 58 of the General Laws . . . . .	\$2,500,000

*Pension Benefits.*

0612-0105	For payment of the public safety employee killed in the line of duty benefit authorized by section 100A of chapter 32 of the General Laws . . . . .	\$500,000
-----------	-----------------------------------------------------------------------------------------------------------------------------------------------------	-----------

*Commission on Firefighters' Relief.*

0620-0000	For financial assistance to injured firefighters . . . . .	\$9,808
-----------	------------------------------------------------------------	---------

*Lottery Commission.*

0640-0000	For the operation of the state lottery commission and arts lottery; provided, that no funds shall be expended from this item for any costs associated with the promotion or advertising of lottery games; provided further, that positions funded by this item shall not be subject to chapters 30 and 31 of the General Laws; and provided further, that 25 per cent of the amount appropriated herein shall be transferred quarterly from the State Lottery Fund to the General Fund . . . . .	\$67,072,388
0640-0001	For the operation of the state lottery commission; provided, that the commission may seek revenue from corporate advertising for non-lottery products on all lottery products; provided further, that payments from corporate advertising shall be deposited into the General Fund; and provided further, that expenditure in this item is limited to an amount not to exceed revenues collected from corporate advertising payments or the amount appropriated herein, whichever is less . . . . .	\$3,653,019

Chap. 149

0640-0005	For the costs associated with the continued implementation of the game of keno; provided, that any sums expended on promotional activities shall be limited to point of sale promotions and agent newsletters; provided further, that 25 per cent of the amount appropriated in this item shall be transferred quarterly from the State Lottery Fund to the General Fund .....	\$1,233,347
0640-0010	For the promotional activities associated with the state lottery program; provided, that 25 per cent of the amount appropriated in this item shall be transferred quarterly from the State Lottery Fund to the General Fund .....	\$10,000,000
0640-0013	For costs to establish, develop, implement and promote a lottery anti-litter program; provided, that said lottery may develop regional environmental awareness events to limit the number of discarded instant tickets that become litter; provided further, that 25 per cent of the amount appropriated in this item shall be transferred quarterly from the State Lottery Fund to the General Fund .....	\$100,000
0640-0096	For the purpose of the commonwealth's fiscal year 2005 contributions to the health and welfare fund established pursuant to the collective-bargaining agreement between the lottery commission and the service employees international union, Local 254, AFL-CIO; provided, that the contributions shall be paid to the trust fund on such basis as the collective bargaining agreement provides; provided further, that 25 per cent of the amount appropriated in this item shall be transferred quarterly from the State Lottery Fund to the General Fund .....	\$288,782

*Massachusetts Cultural Council.*

0640-0300	For the services and operations of the council, including grants to or contracts with public and non-public entities; provided, that notwithstanding any general or special law to the contrary, the council may expend the amounts herein appropriated for the purposes of the council as provided in sections 52 to 58, inclusive, of chapter 10 of the General Laws in amounts and at times as the council may determine pursuant to section 54 of said chapter 10; provided further, that 25 per cent of the amount appropriated herein shall be transferred quarterly from the Arts Lottery Fund to the General Fund; provided further,	
-----------	----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	--

that any funds expended from this item for the benefit of schoolchildren shall be expended for the benefit of all Massachusetts schoolchildren and on the same terms and conditions; provided further, that the council shall not expend funds from this item for any grant or contract recipient that, in any program or activity for Massachusetts schoolchildren, does not apply the same terms and conditions to all such schoolchildren; provided further, that not more than \$1,000,000 of the funds appropriated herein shall be used to assist cultural organizations in augmenting or initiating endowments to promote the financial stability of the organizations and the assistance shall be in the form of challenge grants to the organizations; provided further, that in order to receive a grant a cultural organization shall raise an amount at least equal to the amount of the grant for the organization's endowment; provided further, that funds provided by the grants shall, in perpetuity, be used solely to provide free or reduced rate public programs or services to citizens of the commonwealth; provided further, that a grant made under this program shall not exceed \$100,000; and provided further, that a person employed under this item shall be considered an employee within the meaning of section 1 of chapter 150E of the General Laws and shall be placed in the appropriate bargaining unit . . . . . \$6,603,354

0640-0350 For the purposes of cultural resources pursuant to section 36 of chapter 69 of the General Laws including grants to or contracts with public and non-public entities; provided, that the council shall not expend funds from this item for any recipient that, in any program or activity for Massachusetts schoolchildren, does not apply the same terms and conditions to all such schoolchildren; provided further, that 25 per cent of the amount appropriated herein shall be transferred quarterly from the Arts Lottery Fund to the General Fund . . . . . \$743,520

0640-0351 For the John and Abigail Adams Arts Program, as established herein, to promote innovations in the arts and humanities within the commonwealth through the disbursement of cultural economic development grants including grants for cultural activities that have the capacity to revitalize communities, stimulate income, create or enhance jobs, and attract tourism; provided, that said funds shall be administered by the Massachusetts cultural council; provided

further, that the mission of grant applicants may include demonstrated scholarship or creativity in, or distinguished service to, the arts and humanities; provided, that grants may focus on seed funding for early stage planning or implementation, creation of enduring partnerships among cultural and non-cultural organizations, defined community needs or opportunities, and creation of innovative and sustainable development models that can be replicated throughout and beyond the commonwealth; provided further, that eligible applicants shall include, but not be limited to, not-for-profit organizations and public sector entities; provided further, that collaborating partners may also include private, for-profit organizations, educational institutions and state or federal agencies; provided further, that grants shall not exceed \$100,000 and shall be leveraged by not less than \$1 for each \$1 granted; provided further, that preference shall be given to an applicant with multiple funding sources that can demonstrate project viability, community support and potential for long-term sustainability; and provided further, that 25 per cent of the amount appropriated herein shall be transferred quarterly from the State Lottery Fund to the General Fund ..... \$1,000,000

*Debt Service.*

0699-0015 For the payment of interest, discount and principal on certain bonded debt and the sale of bonds of the commonwealth, previously charged to the Local Aid Fund, the State Recreation Areas Fund, the Metropolitan Parks District Fund, the Metropolitan Water District Fund, the Metropolitan Sewerage District Fund, the Watershed Management Fund, the Highway Fund, and the Inter-City Bus Fund; provided, that payments of certain serial bonds maturing previously charged to the Local Aid Fund, the State Recreation Areas Fund, the Metropolitan Water District Fund, the Metropolitan Sewerage District Fund, and the Highway Fund shall be paid from this item; provided further, that notwithstanding any general or special law to the contrary, the state treasurer may make payments pursuant to section 38C of chapter 29 of the General Laws from this item and item 0699-9100; provided further, that the payments shall pertain to the bonds, notes, or

other obligations authorized to be paid from each item; provided further, that notwithstanding any general or special law to the contrary, the comptroller may transfer the amounts that would otherwise be unexpended on June 30, 2005, from item 0699-0015 to item 0699-9100 or from item 0699-9100 to item 0699-0015 which would otherwise have insufficient amounts to meet debt service obligations for the fiscal year ending June 30, 2005; provided further, that each amount transferred shall be charged to the funds as specified in the item to which the amount is transferred; provided further, that payments on bonds issued pursuant to section 20 of chapter 29 of the General Laws shall be paid from this item and shall be charged to the Infrastructure sub-fund of the Highway fund; provided further, that payments of interest, discount and principal on certain bonded debt of the commonwealth associated with the Watershed Management Fund for the acquisition of development rights and other interests in land, including fee simple acquisitions of watershed lands of the Quabbin and Wachusett reservoirs and the Ware river watershed above the Ware river intake pipe shall be paid from this item; provided further, that notwithstanding any general or special law to the contrary or other provisions of this item, the comptroller may charge the payments authorized herein to the appropriate budgetary or other fund subject to a plan which the comptroller shall file 10 days in advance with the house and senate committees on ways and means; and provided further, that the comptroller shall transfer from this item to the government land bank fund an amount equal to the amount by which debt service charged to said fund exceeds revenue deposited to said fund . . . . \$1,568,573,000

General Fund . . . . . 68.07%  
Highway Fund . . . . . 31.93%

0699-2004 For the payment of interest, discount and principal on certain indebtedness which may be incurred for financing the central artery/third harbor tunnel funding shortfall . . . . . \$76,264,000

Highway Fund . . . . . 100.0%

0699-9100 For the payment of interest and issuance costs on bonds and bond and revenue anticipation notes and other notes pursuant to sections 47 and 49B of chapter 29 of the General Laws; provided, that the treasurer shall certify to the comptroller a schedule of the distribution of costs among the various funds

**Chap. 149**

	of the commonwealth; provided further, that the comptroller shall charge costs to such funds in accordance with such schedule; and provided further, that any deficit in this item at the close of the fiscal year ending June 30, 2005 shall be charged to the various funds or to the General Fund or highway fund debt service reserves . . . . .	\$20,950,000
0699-9101	For the purpose of depositing with the trustee under the trust agreement authorized in section 10B of chapter 11 of the acts of 1997 an amount to be used to pay the interest due on notes of the commonwealth issued pursuant to section 9 of said chapter 11 and secured by the Federal Highway Grant Anticipation Note Trust Fund . . . . .	\$74,698,000
0699-9200	For certain debt service contract assistance to the Massachusetts Development Finance Agency in accordance with chapter 23G of the General Laws . . . . .	\$13,281,468

**STATE AUDITOR.**

*Office of the State Auditor.*

0710-0000	For the office of the state auditor, including the review and monitoring of privatization contracts in accordance with sections 52 to 55, inclusive, of chapter 7 of the General Laws and shared oversight of the central artery/third harbor tunnel project; provided, that a report shall be submitted to the house and senate committees on ways and means not later than December 1, 2004 delineating the privatization contracts reviewed and monitored during fiscal year 2004; provided further, that the report shall further detail the number of full-time equivalent positions assigned by the office for the review of each of the privatization contracts; provided further, that not less than \$57,250 shall be expended for the position of executive director of the central artery/third harbor tunnel project oversight coordination commission, as established in section 2B of chapter 205 of the acts of 1996, such that the position may continue to provide administrative and investigative functions to the commission in a manner that is consistent with the said section 2B; provided further, that the auditor's office shall pay half of the administrative costs of the municipal finance oversight board from this item; and provided further, that the auditor shall conduct audits of the	
-----------	------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	--

	Chelsea soldiers home, the Holyoke soldiers home, and the New England Shelter for homeless veterans, and the results of the audits shall be reported to the house and senate committees on ways and means not later than March 1, 2005 . . . .	\$14,437,500
0710-0100	For the operation of the division of local mandates . . . . .	\$585,103
0710-0200	For the operation of the bureau of special investigations; provided, that the department shall file quarterly reports with the house and senate committees on ways and means detailing the total amount of fraudulently obtained benefits identified by the bureau of special investigations of the office of the state auditor, the total value of settlement restitution payments, actual monthly collections, and any circumstances that produce shortfalls in collections . . . . .	\$1,600,000

**ATTORNEY GENERAL.**

*Office of the Attorney General.*

0810-0000	For the office of the attorney general, including the administration of the local consumer aid fund, the operation of the anti-trust division, all regional offices, a high-tech crime unit and the victim and witness compensation program; provided, that the victim and witness compensation program shall be administered in accordance with chapters 258B and 258C of the General Laws; provided further, that the attorney general shall submit to the general court and the secretary of administration and finance a report detailing the claims submitted to the state treasurer for payment under item 0810-0004 indicating both the number and costs for each category of claim; provided further, that not more than \$250,000 shall be expended for a grants program for the safe neighborhood initiative-jobs for youth program; provided further, that not more than \$250,000 shall be expended from the funds appropriated in this item for a safe neighborhood initiative pilot program in the Bowdoin/Geneva area, of Dorchester; provided further, that the public proceedings unit shall review the water rate increases; provided further, that no more than \$240,000 shall be expended for the operation of a child protection unit; provided further, that funds may be expended for the commission on uniform state laws; and provided further that \$100,000 shall be expended for the Ella J. Baker House and the Tieng Xanh-Voice Program . . . . .	\$20,951,774
-----------	----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	--------------

---

**Chap. 149**

0810-0004	For compensation to victims of violent crimes; provided, that notwithstanding the provisions of chapter 258C of the General Laws, if a claimant is 60 years of age or older at the time of the crime and is not employed or receiving unemployment compensation, such claimant shall be eligible for compensation in accordance with said chapter 258C even if the claimant has suffered no out-of-pocket loss; provided further, that compensation to such claimant shall be limited to a maximum of \$50; and provided further, that notwithstanding the provisions of any general or special law to the contrary, victims of the crime of rape shall be notified of all available services designed to assist rape victims including, but not limited to, the provisions outlined in section 5 of chapter 258B of the General Laws . . . . .	\$2,156,000
0810-0006	For the increase in rental costs and unavoidable space rental lease obligations associated with the move of certain divisions of the office of the attorney general to the Leverett Saltonstall building in fiscal year 2005 . . . . .	\$2,414,150
0810-0007	For the overtime costs of state police officers assigned to the attorney general; provided, that costs associated with those officers shall not be funded from item 8100-0007; and provided further, that expenditures shall not be made on or after the effective date of this act which would cause the commonwealth's obligation for the purpose of this item to exceed the amount appropriated in this item . . . . .	\$486,517
	Highway Fund . . . . .	88.20%
	General Fund . . . . .	11.80%
0810-0014	For the operation of the department of telecommunications and energy proceedings unit, pursuant to section 11E of chapter 12 of the General Laws; provided, that notwithstanding any general or special law to the contrary, the amount assessed to the unit shall be equal to the amount expended from this item . . . . .	\$1,390,301
0810-0017	For the expenses related to judicial proceedings relevant to the fuel charge pursuant to section 94G of chapter 164 of the General Laws and such other proceedings as may be reasonably related to the section; provided, that the assessment levied for such expense shall be credited to the General Fund . . . . .	\$73,500
0810-0021	For the operation of the Medicaid fraud control unit; provided, that the federal reimbursement for any expenditure from this	

	item shall not be less than 75 per cent of the expenditure; provided further, that not less than \$225,000 shall continue to be used specifically for the investigation and prosecution of abuse, neglect, mistreatment and misappropriation based on referrals from the department of public health pursuant to section 72H of chapter 111 of the General Laws; provided further, that the unit shall provide training for all investigators of the department's division of health care quality responsible for the investigations on a periodic basis pursuant to a comprehensive training program to be developed by the division and the unit; and provided further, that training shall include instruction on techniques for improving the efficiency and quality of investigations of abuse, neglect, mistreatment and misappropriation pursuant to said section 72H of said chapter 111 . . . . .	\$2,566,248
0810-0045	For the labor law enforcement program pursuant to subsection (b) of section 1 of chapter 23 of the General Laws; provided, that notwithstanding any general or special law to the contrary, a non-management position funded by this item shall be considered a job title in a collective bargaining unit as prescribed by the labor relations commission and shall be subject to chapter 150E of the General Laws . . . . .	\$3,005,711
0810-0201	For the costs incurred in administrative or judicial proceedings on insurance as authorized by section 11F of chapter 12 of the General Laws; provided, that funds made available in this item may be used to supplement the automobile insurance fraud unit and the workers' compensation fraud unit of the office of the attorney general; and provided further, that notwithstanding any general or special law to the contrary, the amount assessed for the costs shall be equal to the amount expended from this item . . . . .	\$1,376,948
0810-0338	For the investigation and prosecution of automobile insurance fraud; provided, that notwithstanding section 3 of chapter 399 of the acts of 1991, the amount assessed pursuant to said section 3 for the cost of this program shall be \$280,164 . . . . .	\$280,164
0810-0399	For the investigation and prosecution of workers' compensation fraud; provided, that notwithstanding section 3 of chapter 399 of the acts of 1991, the amount assessed pursuant to said section 3 for the cost of this program shall be \$278,771; provided further, that the attorney general shall investigate and prosecute, where appropriate, employers who fail to provide workers' compensation insurance in accordance with	

the laws of the commonwealth; and provided further, that said unit shall investigate and report on all companies not in compliance with chapter 152 of the General Laws . . . . . \$278,771

*Victim Witness Assistance Board.*

0840-0100 For the operation of the Massachusetts office for victim assistance; provided, that the office shall submit a comprehensive report compiled from the information required of and submitted to the office by the trial court, the registry of motor vehicles and the state treasurer relative to the collection of assessments for the previous calendar year under section 8 of chapter 258B of the General Laws; and provided further, that the report shall be submitted to the house and senate committees on ways and means on or before February 15, 2005 . . . . . \$380,007

0840-0101 For the safeplan advocacy program; provided, that the amount allocated in this item shall be expended on the salaries and employee benefits of safeplan advocates and regional coordinators, including the advocates in the Hampshire probate and family court and the Northampton and Ware district courts; provided further, that funds may be expended by the Massachusetts office for victim assistance to administer the program; provided further, that said office shall submit to the house and senate committees on ways and means not later than February 3, 2005 a report detailing the effectiveness of contracting for said program including, but not limited to, the number and types of incidents to which such advocates responded, the types of services and service referrals provided by such domestic violence advocates, the cost of providing such services and the extent of coordination with other service providers and state agencies . . . . . \$590,826

**STATE ETHICS COMMISSION.**

0900-0100 For the operation of the state ethics commission . . . . . \$1,265,221

**OFFICE OF THE INSPECTOR GENERAL.**

0910-0200 For the operation of the office of the inspector general . . . . . \$2,201,150

0910-0210 The office of the inspector general may expend revenues collected up to a maximum of \$493,819 from the fees charged to participants in the Massachusetts public purchasing official

certification program and the certified public manager program for the operation of such programs; provided, that for the purpose of accommodating discrepancies between the receipts of retained revenues and related expenditures, the office of the inspector general may incur expenses and the comptroller may certify for payment amounts not to exceed the lower of this authorization or the most recent revenue estimate as reported in the state accounting system . . . . . \$493,819

**OFFICE OF CAMPAIGN AND POLITICAL FINANCE.**

0920-0300 For the operation of the office of campaign and political finance . . . . . \$998,178

**OFFICE OF THE STATE COMPTROLLER.**

1000-0001 For the office of the state comptroller for the purpose and cost of compliance with the Single Audit Act of 1984, Public Law 89-502, and for the federally required comprehensive, statewide single audit of state operations for the fiscal year ending June 30, 2005 in accordance with generally accepted accounting principles; provided, that the office of the comptroller shall charge other items of appropriation for the cost of the audit from allocated federal funds transferred from federal reimbursement and grant receipts; provided further, that the office of the comptroller shall charge not more than a total of \$750,000 to other items of appropriation for the cost of the audit; provided further, that notwithstanding any general or special law to the contrary, allocated federal funds transferred from federal reimbursement and grant receipts shall be retained and expended from a separate item without further appropriation, in addition to state funds appropriated to this item, for the cost of compliance with the mandate of the federal law and the office of management and budget regulations; provided further, that the amount of any such federal funds and grant receipts so credited and expended from this item shall be reported to the house and senate committees on ways and means; provided further, that the comptroller shall maintain a special federal and non-tax revenue unit which shall operate under policies and procedures developed in conjunction with the secretary for admin-

istration and finance; provided further, that the comptroller shall provide quarterly reports to the house and senate committees on ways and means which shall include for each state agency for which the commonwealth is billing, the eligible state services, the full year estimate of revenues and revenues collected; provided further, that notwithstanding the provisions of any general or special law to the contrary, the comptroller shall deduct an amount of \$1,000 from any item of appropriation in section 2 of this act in which a reporting requirement is stipulated within said item and which report is not filed within 10 days of the stated due date; provided further, that any and all amounts deducted shall be deposited in the General Fund and the comptroller shall notify the house and senate committees on ways and means of any and all amounts so deducted; provided further, that notwithstanding the provisions of any general or special law to the contrary, the comptroller may enter into contracts with private vendors to identify and pursue cost avoidance opportunities for programs of the commonwealth and to enter into interdepartmental service agreements with state agencies, as applicable, for said purpose; provided further, that 60 days prior to entering into any interdepartmental service agreements the comptroller shall notify the house and senate committees on ways and means; provided further, that said notification shall include, but not be limited to, a description of the project, the purpose and intent of the interdepartmental service agreement, a projection of the costs avoided in the current fiscal year, a copy of the contract with the private vendor including the proposed rate of compensation and any previous agreements related or similar to the new agreement with the above information; provided further, that payments to private vendors on account of such cost avoidance projects shall be made only from such actual cost savings as have been certified in writing to the house and senate committees on ways and means by the comptroller and the budget director as attributable to such cost avoidance projects; provided further, that the comptroller may establish such procedures, in consultation with the budget director and the affected departments, as he deems appropriate and necessary to accomplish the purpose of this section; provided further, that

the budget director shall report on a quarterly basis to the house and senate committees on ways and means the status of all cost avoidance projects which are undertaken pursuant to the provisions of this section; and provided further, that the comptroller shall report on said projects as a part of his annual report pursuant to section 12 of chapter 7A of the General Laws ..... \$7,905,392

1000-0004 The office of the comptroller shall expend an amount not to exceed \$25,000 from fees collected from vendors who participate in training on statewide financial systems including, but not limited to, the Massachusetts management accounting and reporting system; provided, that the office shall provide the training, offer sessions to vendors who do business with the commonwealth and establish and charge a reasonable fee for the training ..... \$25,000

**EXECUTIVE OFFICE FOR ADMINISTRATION AND FINANCE.**  
*Office of the Secretary.*

1100-1100 For the office of the secretary and the administration of the fiscal affairs division; provided, that the secretary shall conduct an ongoing review of affirmative action steps taken by the various agencies, boards, departments, commissions or divisions to determine whether such agencies, boards, departments, commissions or divisions are complying with the commonwealth's policies of non-discrimination and equal opportunity; provided further, that whenever non-compliance is determined by the secretary, the secretary shall hold a public hearing on the matter and report his resulting recommendations to the head of the particular agency, board, department, commission or division, to the governor and to the Massachusetts commission against discrimination; provided further, that the secretary shall report on the status of each agency, board, department, commission or division receiving monies under this act, including supplemental and deficiency budgets, as to compliance or non-compliance with affirmative action policies to the chairs of the house and senate committees on ways and means, the joint committee on public service and the joint committee on commerce and labor on or before December 1, 2004; provided further, that not less

than \$250,000 shall be expended on the state office of minority and women business assistance to support monitoring and enforcement of minority business enterprise and women business enterprise activity on state assisted building projects; provided further, that agencies within the executive office may, with the prior approval of the secretary, streamline and improve administrative operations pursuant to interdepartmental service agreements; provided further, that notwithstanding any general or special law or regulation to the contrary, the secretary for administration and finance, in consultation with the state secretary, shall, not later than October 31, 2004 issue a request for purchase through the competitive bidding process for the provision of public records storage, except those records that receive federal reimbursement, for all state agencies within the jurisdiction of the governor in order to achieve cost savings including, but not limited to, those associated with greater efficiencies in the use and payment of records storage, reduction in private office lease costs for administrative personnel, and for more efficient and accessible use of public office space by displacing records with administrative personnel; and provided further, that the secretary, in consultation with the state secretary, shall report, not later than March 31, 2005, a plan to improve public records storage and office space efficiencies to the joint committee on state administration and to the house and senate committees on ways and means . . . . . \$3,297,608

*Office of Dispute Resolution.*

1100-1103 For the operation of the office of dispute resolution; provided, that said office may enter into an intergovernmental service agreement with the University of Massachusetts at Boston; provided further, that said agreement may transfer the functions of the office to the Boston campus; provided further, that said agreement shall apply to items 1100-1103, 1100-1104, 1100-1108 and 1100-1117; and provided further, that the office shall submit a report that details the status of the transition of the office to the University of Massachusetts at Boston to the house and senate committees on ways and means not later than January 1, 2005 . . . . . \$97,588

Chap. 149

1100-1104 The office of dispute resolution may expend an amount not to exceed \$436,381 in revenues collected from fees charged to cities, towns or public instrumentalities and other political subdivisions of the commonwealth or to corporations and individuals for the costs of mediation and related services; and provided further, that for the purpose of accommodating discrepancies between the receipt of retained revenues and related expenditures, the office of dispute resolution may incur expenses and the comptroller may certify for payment amounts not to exceed the lower of this authorization or the most recent revenue estimate as reported in the state accounting system, including the cost of personnel . . . . . \$436,381

*Division of Capital Asset Management and Maintenance.*

1102-3205 The division may expend for the maintenance and operation of the Massachusetts information technology center an amount not to exceed \$5,500,000 in revenues collected from rentals, commissions, fees, parking fees and any and all other sources pertaining to the operations of said center; and provided further, that notwithstanding any general or special law to the contrary, and for the purpose of accommodating discrepancies between the receipt of retained revenues and related expenditures, the division may incur expenses and the comptroller may certify for payment amounts not to exceed the lower of this authorization or the most recent revenue estimate therefore as reported in the state accounting system . . . . . \$5,500,000

1102-3206 For the costs associated with the maintenance and security of surplus state properties; provided, that the division shall submit quarterly reports that detail the hire date, salary, and job title of every employee at the division and the amount associated with each bond authorization; provided further, the division shall submit a report that details every employee at the division including the hire date, salary, and job title for fiscal years 2002, 2003, 2004 and 2005 to the house and senate committees on ways and means on or before January 11, 2005; provided further, that the commissioner of the division of capital asset management and maintenance shall convey a certain parcel of land with the building thereon, located at 291 Summer Street, Lowell and recorded with the North District Registry of Deeds, Book 1491, Page

Chap. 149

	170, to the current occupant of said premises; provided further, that the commissioner of the division of capital asset management and maintenance shall complete study number SDE 0301ST1 regarding the site location of the proposed regional holding facility in Essex county by July 31, 2004; and provided further, that the division of capital asset management and maintenance and the Massachusetts highway department shall close and secure the rest stop area on Route 2 west in the town of Harvard . . . . .	\$359,208
1102-3214	For the state transportation building; provided, that the division may expend revenues collected up to a maximum of \$6,100,000 from rentals, commissions, fees, parking fees and from any and all other sources pertaining to the operation of the state transportation building for the maintenance and operation of said building; and provided further, that for the purpose of accommodating discrepancies between the receipt of retained revenues and related expenditures, the division may incur expenses and the comptroller may certify for payment amounts not to exceed the lower of this authorization or the most recent revenue estimate as reported in the state accounting system . . . . .	\$6,100,000
1102-3231	For the Springfield state office building; provided, that the division may expend revenues collected up to a maximum of \$654,322 from rents charged to agencies occupying said building for the maintenance and operation of said building; and provided further, that for the purpose of accommodating discrepancies between the receipt of retained revenues and related expenditures, the division may incur expenses and the comptroller may certify for payment amounts not to exceed the lower of this authorization or the most recent revenue estimate as reported in the state accounting system . . . . .	\$654,322
1102-3232	For the division of capital asset maintenance and management; provided, that the division may expend an amount not to exceed \$300,000 received from application fees charged in conjunction with the certification of contractors and subcontractors pursuant to section 44D of chapter 149 of the General Laws; and provided further, that only expenses, including staffing, incurred to implement and operate the certification program shall be funded from this item . . . . .	\$300,000
1102-3233	For a reserve to commence the environmental remediation and any necessary work related to said remediation at the property	

located in Norfolk, Massachusetts formerly known as the Department of Public Health Pondville Hospital as said property is identified in chapter 519 of the acts of 1980 so as to ensure that any and all contamination and hazardous waste or material is eliminated from said site as required by section 679 of chapter 26 of the acts of 2003; provided, that the commissioner of the division of capital asset management and maintenance shall submit a expenditure plan no later than September 1, 2004 to the house and senate committees on ways and means detailing how funds appropriated herein shall be expended; provided further, that all funds appropriated herein shall be expended solely on environmental remediation directly related to said site; and provided further, that no funds appropriated herein shall be expended for administrative related expenditures . . . . . \$1,000,000

1102-3299 For additional renovations to the third floor of the Cohannet School building in the city of Taunton to ensure that the temporary court facility to be housed in said building will be adequate for the court's business and to ensure said facility will be in full compliance with public health and safety standards . . . . . \$1,500,000

*Bureau of State Office Buildings.*

1102-3301 For the operation of the bureau and for the maintenance and operation of buildings under the jurisdiction of the state superintendent of buildings; provided, that the bureau shall retain jurisdiction over all contracts, purchases and payments for materials and services required in the operation of the bureau . . . . . \$6,432,413

1102-3302 For the purposes of utility costs and associated contracts for the properties managed by the bureau of state office buildings . . . \$5,128,342

1102-3305 For the maintenance and joint operation of the state house under the jurisdiction of the state superintendent of buildings and the joint committee on rules of the house of representatives and the senate; provided, that the bureau shall work in coordination with the house of representatives and the senate relative to the maintenance, repair, purchases and payments for any and all materials and services required in the operation of the state house . . . . . \$500,000

*Office on Disability.*

1107-2400 For the office on disability ..... \$573,469

*Disabled Persons Protection Commission.*

1107-2501 For the disabled persons protection commission; provided, that the commission shall facilitate compliance by the department of mental health and the department of mental retardation with uniform investigative standards; provided further, that the commission shall report to the house and senate committees on ways and means not later than the last day of each quarter on the number of claims of abuse by caretakers made by employees or contracted service employees of the departments of mental retardation and mental health and the Massachusetts rehabilitation commission; provided further, that the report shall include: (i) the number of claims found to be substantiated; (ii) the number of claims found to be unsubstantiated; and (iii) the number of claims found to be falsely reported as a result of intentional and malicious action; and provided further, that the commission shall ensure that all calls received by the commission's 24-hour hotline are recorded, that all persons who call said hotline shall be immediately informed that all calls are recorded, and each such person shall be provided with the opportunity to elect that the call not be recorded ..... \$1,704,742

*Civil Service Commission.*

1108-1011 For the civil service commission; provided, that the General Fund shall be reimbursed for the appropriation herein through a fee charged on a per claim basis; provided further, that said commission shall develop and implement regulations to implement said reimbursement to the General Fund; and provided further, the civil service commission shall have the power to assess a fee upon the appointing authority when inappropriate action has occurred ..... \$501,454

*Group Insurance Commission.*

1108-5100 For the administration of the group insurance commission; provided, that the commission shall generate the maximum amounts allowable under the federal Consolidated Omnibus

	Budget Reconciliation Act, as amended, and from reimbursements allowed by sections 8, 10B, 10C and 12 of chapter 32A of the General Laws .....	\$1,984,318
1108-5200	For the commonwealth's share of the group insurance premium and plan costs incurred in fiscal year 2005; provided, that the secretary of administration and finance shall charge the division of unemployment assistance and other departments, authorities, agencies and divisions, which have federal or other funds allocated to them for this purpose, for that portion of insurance premiums and plan costs as the secretary determines should be borne by such funds, and shall notify the comptroller of the amounts to be transferred, after similar determination, from the several state or other funds and amounts received in payment of all such charges or such transfers shall be credited to the General Fund; provided further, that prior year costs incurred by the state indemnity health insurance plan and the preferred provider organization shall be funded from this item; provided further, that the group insurance commission shall report quarterly to the house and senate committees on ways and means the amounts expended from this item for said prior year costs; provided further, that the group insurance commission shall obtain reimbursement for premium and administrative expenses from other agencies and authorities not funded by state appropriation; provided further, that the secretary of administration and finance may charge all agencies for the commonwealth's share of the health insurance costs incurred on behalf of any employees of those agencies who are on leave of absence for a period of more than one year; provided further, that the amounts received in payment for such charges shall be credited to the General Fund; provided further, that notwithstanding section 26 of chapter 29 of the General Laws, the commission may negotiate, purchase and execute contracts before July 1 of each year for policies of group insurance as authorized by chapter 32A of the General Laws; provided further, that notwithstanding chapter 150E of the General Laws and as provided in section 8 of said chapter 32A and for the purposes of section 14 of said chapter 32A, the commonwealth's share of the group insurance premium for state employees who have retired before July 1,	

1994 shall be 90 per cent and the commonwealth's share of the group insurance premium for state employees who have retired on or after July 1, 1994 shall be 85 per cent; provided further, that the commonwealth's share of the group insurance premium for active employees upon retirement shall be 85 per cent; provided further, that notwithstanding section 8 of chapter 32A of the General Laws, the commonwealth's share of such premiums for active state employees and their dependents whose salary, as determined by the group insurance commission in consultation with the human resources division and the office of the state comptroller, is between \$0 and \$34,999 shall be 85 per cent of such premiums and rates; provided further, that the commonwealth's share of such premiums for active state employees and their dependents whose salary, as determined by the group insurance commission in consultation with the human resources division and the office of the state comptroller, is \$35,000 and greater shall be 80 per cent of such premiums and rates; provided further, that the preceding provisions pursuant to employee contributions shall sunset June 30, 2005 at which time the commonwealth's share of such premiums for active state employees and their dependents shall be 85 per cent; provided further, that the commonwealth's share of such premiums for active state employees and their dependents who are hired after June 30, 2003 shall be 75 per cent of such premiums and rates; provided further, that notwithstanding any general or special law to the contrary, during fiscal year 2005, said commission shall continue to provide health insurance coverage for employees and members of the board of bar examiners, both full-time and part-time, that were employed by said board as of January 1, 2003 consistent with coverage provided to state employees pursuant to this item; provided further, that notwithstanding any general or special law to the contrary, the Massachusetts Bay Transportation Authority's per centage share of premiums for group, general or blanket hospital, medical, dental or other health insurance, either by purchase of a policy or policies from one or more insurance companies, or nonprofit hospital, medical, dental or other service corporations, including health maintenance organizations, or by means of a self insurance plan or preferred provider arrangement plan, shall be deter-

mined by the authority, or where collective bargaining is authorized through the process of collective bargaining; provided further, that the per centage share of premiums for employees of the authority to whom a collective bargaining agreement is in force, shall be the per centage share which was paid during the month that such collective bargaining agreement first went into effect and shall continue until such time as that agreement expires; and provided further, that the commission shall notify the house and senate committees on ways and means by March 15 of each year of the cost of the commonwealth's projected share of group insurance premiums for the next fiscal year . . . . . \$770,693,026

1108-5350 For elderly governmental retired employee premium payments . . .	\$1,044,704
1108-5400 For the costs of the retired municipal teachers' premiums and the audit of such premiums . . . . .	\$50,926,930
1108-5500 For the costs, notwithstanding chapter 32A of the General Laws to the contrary, of dental and vision benefits for those active employees of the commonwealth, not including employees of authorities and any other political subdivision, who are not otherwise provided those benefits pursuant to a separate appropriation or the terms of a contract or collective bargaining agreement; provided, that the employees shall pay 15 per cent of the monthly premium established by the commission for the benefits . . . . .	\$6,236,609

*Division of Administrative Law Appeals.*

1110-1000 For the operation of the division of administrative law appeals established by section 4H of chapter 7 of the General Laws; provided, that said office shall maintain, to the fullest extent practicable, a complete physical and technological separation from any agency, department, board, commission or program whose decisions, determinations or actions may be appealed to it; provided further, that every decision issued by a commissioner or other head of agency, or designee, following the issuance of a recommended decision by an administrative law judge of the division, shall be an agency decision subject to judicial review pursuant to chapter 30A of the General Laws; provided further, that not less than \$404,226 shall be expended for the processing and adjudication of department of environmental protection appeals by the administrative law

judges, chief administrative law judge, and docket clerk who, on January 1, 2004, were serving in the office of administrative appeals in the executive office of environmental affairs; provided further, that said administrative law judges who, on January 1, 2004, were serving in the office of administrative appeals in the executive office of environmental affairs shall be transferred to the division of administrative law appeals, and shall be assigned, for adjudication by them as administrative magistrates, all pending and newly-filed department of environmental protection appeals; and provided further, that administrative appeals of department of environmental protection decisions shall be filed directly with the division of administrative law appeals ..... \$1,045,843

*George Fingold Library.*

1120-4005 For the administration of the library; provided, that said library shall maintain regular hours of operation from 9:00 a.m. to 5:00 p.m. .... \$1,184,048

*Massachusetts Commission Against Discrimination.*

1150-5100 For the office of the commission, including the processing and resolution of cases pending before the commission that were filed on or before July 1, 2001; provided, that on or before November 1, 2004 the commission shall submit to the house and senate committees on ways and means a report on the total number of all currently pending cases and the total number of such cases in the investigation, conciliation, post-probable cause and pre-public hearing and post-hearing stages; provided further, that the commission shall file an update of the report with the committees on or before March 1, 2005; provided further, that the commission shall identify in such reports the number of cases in which the commission has determined there is probable cause to believe that a violation of chapter 151B of the General Laws has been committed in a case in which the Massachusetts Bay Transportation Authority is named as a respondent; provided further, that the commission shall report to the house and senate committees on ways and means on or before November 1, 2004 the number of cases pending before the commission in

which a state agency or state authority is named as a respondent, specifying those cases in which the Massachusetts Bay Transportation Authority is named as a respondent, and the number of the cases in which there is probable cause to believe that a violation of said chapter 151B has been committed; provided further, that the commission shall include in such report the total number of new cases filed in fiscal year 2004 and the total number of cases closed by the commission in fiscal year 2004; provided further, that funds made available in this item shall be in addition to funds available in item 1150-5104; provided further, that all positions, except clerical, shall be exempt from chapter 31 of the General Laws; and provided further, that the commission shall pursue the highest allowable rate of federal reimbursement .....\$1,434,740

1150-5104 The Massachusetts commission against discrimination may expend revenues from federal reimbursements received for the purposes of the United States Department of Housing and Urban Development fair housing type 1 program and the equal opportunity resolution contract program during fiscal year 2005 and federal reimbursements received for these and other programs in prior years; provided, that notwithstanding any general or special law to the contrary, the commission may also expend revenues generated through the collection of fees and costs so authorized; provided further, that for the purposes of accommodating discrepancies between the receipt of retained revenues and related expenditures, the commission may incur expenses and the comptroller may certify for payment amounts not to exceed the lower of this authorization or the most recent revenue estimate as reported in the state accounting system; and provided further, that notwithstanding section 1 or any other general or special law to the contrary, federal reimbursements received in excess of \$2,467,982 shall be credited to the General Fund .....\$2,467,982

1150-5116 The Massachusetts commission against discrimination may expend an amount not to exceed \$27,500 from revenues collected from fees charged for the training and certification of diversity trainers for the operation of the discrimination prevention certification program ..... \$27,500

*Department of Revenue.*

1201-0100 For the operation of the department of revenue, including tax collection administration, audits of certain foreign corporations, and the division of local services; provided, that the department may allocate an amount not to exceed \$250,000 to the office of the attorney general for the purpose of the tax prosecution unit; provided further, that the department may charge the expenses for computer services, including the cost of personnel and other support costs provided to the child support enforcement unit, from this item to item 1201-0160, consistent with the costs attributable to said unit; provided further, that the department shall maintain regional offices in the cities of Hyannis, Springfield, Pittsfield, Fall River, and Worcester; provided further, that the department shall provide to the general court access to the municipal data bank; and provided further, that notwithstanding section 1 of chapter 31 of the General Laws, seasonal positions funded by this account are positions requiring the services of an incumbent, on either a full-time or less than full-time basis beginning no earlier than December 1 and ending no later than November 30; and provided further, that seasonal positions funded by this account may not be filled by incumbent for more than 10 months within a 12 month period ..... \$111,470,805

General Fund ..... 95.0%

Highway Fund ..... 5.0%

1201-0130 The department of revenue may expend an amount not to exceed \$9,640,000 from revenues collected by auditors and for the costs of administering an enhanced audit program, for discovering and identifying persons who are delinquent either in the filing of a tax return or the payment of a tax due and payable to the commonwealth, for the costs of obtaining those delinquent returns and collecting those delinquent taxes for a prior fiscal year; provided, that the commissioner may expend funds from this item to support the operational costs of the department funded from item 1201-0100; provided further, that the department of revenue shall conduct an investigation pursuant to the recommendations made by the office of the inspector general in a report dated January 23, 2004 to determine whether any tax credits previously authorized under

section 38N of chapter 63 of the General Laws should be recaptured by the commonwealth; provided further, that the department shall file a report with the house and senate committees on ways and means no later than September 1, 2004 on the findings of said investigation; provided further, that notwithstanding any general or special law to the contrary, for the purpose of accommodating timing discrepancies between the receipt of revenues and related expenditures, the department may incur expenses and the comptroller may certify for payment the amounts not to exceed the lower of this authorization or the most recent revenue estimate therefore as reported in the state accounting system; provided further, that the commissioner of revenue shall study the potential impacts of the disclosure by the commissioner of a list of all taxpayers, including but not limited to individuals, trusts, partnerships, corporations, 121A corporations and other taxable entities, that are delinquent in the payment of their tax liabilities in an amount greater than \$25,000 for a period of 6 months from the time the taxes were assessed; provided further, that the commissioner shall at least annually publish a list of all taxpayers who are delinquent in the payment of any tax liability and shall publish said list on the department's website, with a link to said list clearly situated on the website, and at the same time, may also publish the list in any print media and electronic media of the commissioner's choosing; provided however, that the commissioner shall not publish or post on any list of delinquent taxpayers the name of any taxpayer or person who is accused of being delinquent in the payment of any tax liability until said taxpayer or person has exhausted all appellate action including, but not limited to, appeals before the appellate tax board, any division of the trial court, the commissioner of revenue, any municipality, any other tax collecting authority in the commonwealth or any other possible avenue of appeal; provided further, that said list shall include, at a minimum, information indicating whether the taxpayer is an individual, the name of the taxpayer, if the taxpayer is a business entity; provided further, that the list shall include also the address of the taxpayer, the type of tax for which the taxpayer is delinquent, the year the tax was assessed, and the amount of total tax liability outstanding, in-

cluding penalties and interest; provided further, that the commissioner shall make the list available for public inspection at the department upon request during the regular business hours; provided further, that the commissioner shall provide the registrar of motor vehicles and the assessors in each city and town with a list of the names and addresses of taxpayers who filed resident income tax returns; provided further, that the purposes of the lists are to identify residents who may have improperly registered their motor vehicles and failed to pay motor vehicle registration fees, state sales and use taxes and local motor vehicle excises; and provided further, that the commissioner shall direct the assessors to provide to all real property owners a notice inserted with each tax bill describing section 3 of chapter 90 of the General Laws . . . . . \$9,640,000

1201-0160 For the child support enforcement unit; provided, that the department may allocate funds appropriated herein to the department of state police, the district courts, the probate and family courts, the district attorneys and other state agencies for the performance of certain child support enforcement activities, and that such agencies are hereby authorized to expend said funds for the purposes of this item; provided further, that all such allocations shall be reported quarterly to the house and senate committees on ways and means upon the allocation of said funds; provided further, that the federal receipts associated with the child support computer network shall be drawn down at the highest possible rate of reimbursement and deposited into a revolving account to be expended for said network; provided further, that federal receipts associated with child support enforcement grants shall be deposited into a revolving account to be drawn down at the highest possible rate of reimbursement and to be expended for the grant authority, so-called; provided further, that the department shall file quarterly reports with the house and senate committees on ways and means, detailing the balance, year-to-date and projected receipts and year-to-date and projected expenditures, by subsidiary, of the child support trust fund established pursuant to section 9 of chapter 119A of the General Laws; and provided further, that the department shall file a performance report with the house and senate committees on ways and means on or before January 15, 2005 detailing current staffing levels by function

Chap. 149

	and performance indicators, including, but not limited to, TAFDC and non-TAFDC caseloads, collection levels, court cases, paternities established, court orders established, average employee workload, federal reimbursements, projections of said indicators for the remainder of the fiscal year and any deviations of current performance from previous projections .....	\$45,779,169
1201-0164	For the child support enforcement division; provided, that said division may expend revenues in an amount not to exceed \$6,547,280 from the federal reimbursements awarded for personnel and lower subsidiary related expenditures .....	\$6,547,280
1231-1000	For the Commonwealth Sewer Rate Relief Fund established in section 2Z of chapter 29 of the General Laws .....	\$10,000,000
1231-1020	For a program of loans, loan purchases or loan guarantees or interest subsidies to assist homeowners, homeowner associations or condominium associations in complying with revised state environmental code for subsurface disposal of sanitary waste, Title V, so called; provided, that the program shall be in addition to the loan program established pursuant to item 2200-9959 in section 2 of chapter 85 of the acts of 1994; provided further, that the department may contract with third parties, including, but not limited to, commonwealth-based financial institutions to manage said program; provided further, that the department and the third parties shall take all steps necessary to minimize the program's administrative costs; provided further, that the loans, loan purchases or loan guarantees shall be available on the basis of a sliding scale that relates a homeowner's income and assets to the cost of Title V compliance; provided further, that interest subsidies shall be means-tested and may be for zero-interest loans pursuant to income standards developed by the department; and provided further, that the department of revenue shall consult with the department of environmental protection in developing rules, regulations and guidelines for said program, prior appropriation continued.	
1232-0100	For underground storage tank reimbursements to parties that have remediated spills of petroleum products pursuant to chapter 21J of the General Laws; prior appropriation continued .....	\$9,200,000
1232-0200	For the Underground Storage Tank Petroleum Cleanup Fund Administrative Review Board pursuant to chapter 21J of the General Laws and for the administration of the underground	

Chap. 149

	storage tank program associated with the implementation of chapter 21J of the General Laws; provided, that notwithstanding section 4 of chapter 21J or any other general or special law to the contrary, appropriations made in this item shall be sufficient to cover said administrative expenses of the underground storage tank program; provided further, that the board shall submit to the house and senate committees on ways and means a report on the status of the underground storage program, including, but not limited to, the number of municipal grants made for the removal and replacement of underground storage tanks and the reimbursements for remediated petroleum spills; provided further, that the report shall detail how many tanks are out of compliance with chapter 21J; and provided further, that the report shall be submitted not later than February 16, 2005, prior appropriation continued .....	\$1,500,000
1232-0300	For underground storage tank municipal grants to remove and replace the tanks pursuant to section 2 of chapter 21J of the General Laws and section 37A of chapter 148 of the General Laws .....	\$489,901
1233-2000	For reimbursing cities and towns for taxes abated pursuant to clauses Seventeenth, Twenty-second, Twenty-second A, Twenty-second B, Twenty-second C, Twenty-second E and Thirty-seventh of section 5 of chapter 59 of the General Laws .....	\$8,400,000
1233-2010	For reimbursing cities and towns for tax abatements granted to certain homeowners over the age of 65 pursuant to clause Fifty-second of section 5 of chapter 59 of the General Laws .....	\$9,655
1233-2310	For reimbursing cities and towns for taxes abated pursuant to the clauses Forty-first, Forty-first B and Forty-first C of section 5 of chapter 59 of the General Laws; provided, that the commonwealth shall reimburse each city or town that accepts said clause Forty-first B or clause Forty-first C for additional costs incurred in determining eligibility of applicants under those clauses in an amount not to exceed \$2 per exemption granted .....	\$9,890,345

*Appellate Tax Board.*

1310-1000 For the operation of the appellate tax board; provided, that the

	board shall schedule hearings in Barnstable, Gardner, Lawrence, Milford, Northampton, Pittsfield, Springfield, Worcester and southeastern Massachusetts; and provided further, that the board shall report to the house and senate committees on ways and means no later than December 1, 2004 on the number of hearings held at each location . . . . .	\$1,723,561
1310-1001	The appellate tax board may expend revenues up to a maximum of \$300,000 from fees collected; provided, that in order to accommodate discrepancies between the receipt of retained revenues and related expenditures, the board may incur expenses and the comptroller may certify for payment amounts not to exceed the lower of this authorization or the most recent revenue estimate as reported in the state accounting system . . . . .	\$300,000

*Department of Veterans Services.*

0610-0093	For the purposes of allowing the department of veterans' services to make bonus payments to Persian Gulf war veterans; provided, that all such payments shall be consistent with the purposes of the trust instrument for "A Hero's Welcome Trust Fund" . . . . .	\$23,000
	A Hero's Welcome Trust Fund . . . . .	100.0%
1410-0010	For the operation of the office of veterans' services; provided, that the office may fund a housing specialist from this item; provided further, that not less than \$10,000 shall be expended for the Korean War Veterans committee of Massachusetts for the purpose of maintaining the Massachusetts Korean War Memorial located in the shipyard park of the Charlestown Navy Yard; provided further, that not less than \$10,000 shall be expended for the purpose of maintaining the Massachusetts Vietnam Veterans Memorial located in the Green Hill Park in Worcester; and provided further, that the department may expend funds for the Glory 54th Brigade . . . . .	\$1,652,348
1410-0012	For services to veterans, including the maintenance and operation of outreach centers; provided, that said centers shall provide counseling to incarcerated veterans and to Vietnam era veterans and their families who may have been exposed to agent orange; provided further, that not less than \$228,771 shall be obligated for a contract with the Veterans Benefit Clearinghouse in the Roxbury section of Boston; provided	

---

**Chap. 149**

further, that not less than \$82,757 shall be obligated for a contract with the Veterans Northeast Outreach Center in the city of Haverhill; provided further, that not less than \$106,102 shall be obligated for a contract with the North Shore Veterans Counseling Center in the city of Beverly; provided further, that not less than \$84,879 shall be obligated for a contract with the Veterans Association of Bristol county in the city of Fall River; provided further, that not less than \$100,000 shall be obligated for a contract with NamVets of the Cape and Islands in the town of Hyannis; provided further, that not less than \$84,879 shall be obligated for a contract with the Outreach Center, Inc., in the city of Pittsfield; provided further, that not less than \$292,480 shall be obligated for a contract with the Montachusett Veterans Outreach Center in the city of Gardner; provided further, that not less than \$84,453 shall be obligated for a contract with the Metrowest/Metrosouth Outreach Center in the town of Framingham; provided further, that not less than \$15,000 be expended for the oral history project at the Morse Institute Library in Natick; provided further, that not less than \$50,000 shall be expended for Veteran's Services to be administered by the Falmouth Veterans Agent through the Falmouth Free Clinic and Community Center; and provided further, that not less than \$134,879 shall be obligated for a contract with the Puerto Rican Veterans Association of Massachusetts, Inc., in the city of Springfield . . . . . \$1,264,200

1410-0015 For the women veterans' outreach program . . . . . \$40,281

1410-0018 The department may expend for the maintenance and operation of Agawam and Winchendon veterans' cemeteries an amount not to exceed \$300,000 from revenue collected from fees, grants, gifts or other contributions to the cemeteries . . . . . \$300,000

1410-0100 For the revenue maximization project of the executive office of elder affairs to identify individuals eligible for veterans' pensions who are currently receiving home health care services . . . . . \$98,000

1410-0250 For homelessness services; provided, that not less than \$453,966 shall be obligated for a contract with the central Massachusetts shelter for homeless veterans located in the city of Worcester; provided further, that not less than \$352,395 shall be obligated for a contract with the Southeastern Massachusetts Veterans Housing Program, Inc.

located in the city of New Bedford; provided further, that \$100,350 shall be obligated for a contract with the Veterans Benefit Clearinghouse located in Dorchester; provided further, that not less than \$199,405 shall be obligated for a contract with Unity House located in the city of Gardner; provided further, that not less than \$75,000 shall be obligated for a contract with the Transition House located in the city of Springfield; provided further, that not less than \$51,975 shall be expended for a contract with the Springfield bilingual veterans outreach center for the operation and maintenance of a transitional housing unit at the YMCA of Springfield; provided further, that not less than \$44,888 shall be obligated for a contract with the Mansion located in the city of Haverhill; provided further, that not less than \$28,350 shall be obligated for a contract with the Homestead located in the town of Hyannis; provided further, that not less than \$120,000 shall be obligated for contracts with the veterans hospice homestead in the city of Leominster and the veterans hospice in the town of Fitchburg; provided further, that not less than \$22,500 shall be obligated for a contract with the Turner House located in the town of Williamstown; provided further, that not less than \$73,350 shall be obligated for a contract with the Veterans Benefit Clearinghouse located in Roxbury; provided further, that not less than \$200,000 shall be obligated for a contract with the United Veterans of America shelter located in the town of Leeds; and provided further, that not less than \$90,000 shall be obligated for a contract with Habitat P.L.U.S. in the city of Lynn ..... \$1,812,179

1410-0251 For homelessness services, including the maintenance and operation of homeless shelters and transitional housing for veterans at the New England Shelter for Homeless Veterans located in the city of Boston ..... \$2,093,735

1410-0300 For the payment of annuities to certain disabled veterans and the parents and unremarried spouses of certain deceased veterans; provided, that such payments shall be made pursuant to section 6B of chapter 115 of the General Laws; provided further, that the department shall take reasonable steps to terminate payments upon the death of a recipient; provided further, that the department shall prorate annuity payments to ensure that the total payments in fiscal year 2005 shall not exceed the amount appropriated herein; provided further, that

the commissioner of veterans' services shall file with the house and senate committees on ways and means a report detailing the number of applications received for annuities offered under this program at the end of each fiscal quarter; provided further, that the secretary of veterans' services may transfer up to 5 per cent of the amount appropriated herein between this item and item 1410-0400; and provided further, that 30 days before any such transfer is made, the secretary of veterans' services shall file with the secretary for administration and finance and the house and senate committees on ways and means a plan showing the amounts to be transferred and the reason for the proposed transfer . . . \$11,362,800

1410-0400 For reimbursing cities and towns for money paid for veterans' benefits and for payments to certain veterans; provided, that the reimbursements shall be made pursuant to section 6 of chapter 115 of the General Laws; provided further, that notwithstanding any general or special law to the contrary, 100 per cent of the amounts of veterans' benefits paid by cities and towns to residents of a soldiers' home shall be paid by the commonwealth to the several cities and towns; provided further, that pursuant to section 9 of said chapter 115, the department shall reimburse cities and towns for the cost of United States flags placed on the graves of veterans on Memorial Day; provided further, that notwithstanding any general or special law to the contrary, the secretary of veteran services may continue a training program for veterans' agents and directors of veterans' services in cities and towns; provided further, that the purpose of such training program shall be to maximize federal assistance available for veterans and to assure that such agents and directors receive uniform instruction on providing veterans and dependents with advice relative to procurement of state, federal and local benefits to which they are entitled, including employment, education, health care, retirement and other veterans' benefits; provided further, that the subject matter of such training program shall include benefits available under said chapter 115 and alternative resources, including those which are partially or wholly subsidized by the federal government, such as medicaid, Supplemental Security Income and Social Security Disability benefits, as well as federal pension and compensation entitlements; provided further, that the secretary shall promul-

gate regulations for the training program; provided further, that upon successful participation by such veterans' agents or directors of veterans' services in such training program, the costs of such training program incurred by the several cities and towns shall be reimbursed by the commonwealth on or before November 10 following the fiscal year in which such costs were paid; provided further, that any person applying for veterans' benefits to pay for services available under chapter 118E of the General Laws, shall also apply for medical assistance under said chapter 118E to minimize cost of the commonwealth and its municipalities; provided further, that veterans' agents shall complete applications authorized by the division of medical assistance under said chapter 118E for any veteran, widow and dependent applying for medical assistance under said chapter 115; provided further, that the veterans' agent shall file the application for the veteran or dependent for assistance under said chapter 118E; provided further, that the division of medical assistance shall act on all said chapter 118E applications and advise the applicant and the veterans' agent of the applicant's eligibility for said chapter 118E healthcare; provided further, that the veterans' agent shall advise the applicant of the right to assistance for medical benefits under said chapter 115 pending approval of the application for assistance under said chapter 118E by the division of medical assistance; provided further, that the commissioner may supplement healthcare pursuant to said chapter 118E with healthcare coverage under said chapter 115 if he determines that supplemental coverage is necessary to afford the veteran or dependent sufficient relief and support; provided further, that payments to or on behalf of a veteran or dependent pursuant to said chapter 115 shall not be considered income for the purposes of determining eligibility under said chapter 118E; provided further, that benefits awarded pursuant to section 6B of said chapter 115 shall be considered countable income; provided further, that the secretary of veterans' services may transfer up to 5 per cent of the amount appropriated herein between this item and item 1410-0300; and provided further, that 30 days before any such transfer is made, the secretary of veterans' services shall file with the secretary for administration and finance and the

Chap. 149

	house and senate committees on ways and means a plan showing the amounts to be transferred and the reason for the proposed transfer	\$11,282,800
1410-0630	For the administration of the veterans' cemeteries in the towns of Agawam and Winchendon	\$859,816

Reserves.

1599-0035	For certain debt service contract assistance to the Massachusetts Convention Center Authority in accordance with section 39 of chapter 190 of the acts of 1982; provided, that the assistance shall be expended notwithstanding section 35J of chapter 10 of the General Laws	\$16,302,000
1599-0042	For a reserve to improve the quality of the commonwealth's child care system by enabling child care providers to better attract and retain quality staff; provided, that payments from this reserve shall be distributed by the office of child care services to increase reimbursement rates for subsidized child care; provided further, that the increases shall be directed to expenditures for salaries, benefits, and stipends for professional development of child care workers; and provided further, that such increases may be allocated to adjust rates of reimbursement paid to each provider by the same per centage across the common wealth	\$5,000,000
1599-0049	For contract assistance payments to the Foxborough Industrial Development Finance Authority in accordance with section 8 of chapter 16 of the acts of 1999	\$5,336,488
1599-0050	For Route 3 North contract assistance payments	\$26,755,107
1599-0093	For contract assistance to the water pollution abatement trust for debt service obligations of the trust, in accordance with sections 6 and 6A of chapter 29C of the General Laws	\$55,176,893
1599-1970	For a reserve for the Massachusetts turnpike authority for costs incurred in fiscal year 2004 for the operation and maintenance of the central artery/tunnel project pursuant to chapter 235 of the acts of 1998	\$25,000,000
1599-1971	For the cost of hired and leased equipment, vehicle repair, and sand, salt, and other control chemicals used for snow and ice control; provided, that the secretary for administration and finance shall submit to the house and senate committees on post audit and oversight, the house and senate committees on transportation and the house and senate committees on ways	

and means a report on snow and ice control efforts no later than September 1, 2004 which shall include, but not be limited to, the following: (a) a list of amounts paid to each vendor from state appropriations for snow and ice control efforts for fiscal years 1998, 1999, 2000, 2001, 2002, 2003 and 2004; (b) a comparison of the average snowfall by county as reported by the national weather service and the amount of state snow and ice control effort funds appropriated by county for fiscal years 1998, 1999, 2000, 2001, 2002, 2003 and 2004; (c) a detailed account of the administrative oversight exercised by either the secretary for administration and finance, the secretary of transportation or the department of highways for snow and ice control efforts, including an explanation of measures taken to verify services provided, audit vendor payment vouchers, or any other measures taken to ensure accountability relative to the expenditure of the state funds for snow and ice control efforts; (d) a comparison delineated by county of the commonwealth of the amounts expended on snow and ice control efforts to the daily snowfall amounts as reported by the national weather service; (e) information on the transponder program that was implemented during fiscal year 2004, including, but not limited to, the number and cost of transponders leased or purchased, costs associated with maintenance and warranties for said transponders, the useful life of said transponders, the number of incidents when transponders failed or malfunctioned, the number of transponders that were damaged, estimated costs of continuing said program, the compliance rate of vendors using transponders, the number of transponders that were damaged or broken, the number of appeals by contractors for transponders that may have failed or malfunctioned, a list of any contractors that were accused of, charged with or prosecuted for fraudulent snow and ice removal claims; and (f) any other information that said secretary determines is necessary to account for and explain the extraordinary expenditure of state appropriations for the control and removal of snow and ice; provided further that the study indicates how many salt storage facilities in the commonwealth are in conformance with section 7A of chapter 85 of the General Laws and how many are not; and provided further, that no funds shall be expended or allocated

	from this item of appropriation until said secretary, the commissioner of highways and any other officer of the commonwealth involved in snow and ice control efforts has submitted all documentation, testimony, data and other information as required by the provisions of this appropriation and said report has been filed with said committees in the exact manner as stipulated herein . . . . .	\$35,000,000
1599-3234	For the commonwealth's south Essex sewerage district debt service assessment . . . . .	\$93,550
1599-3384	For a reserve for the payment of certain court judgments, settlements and legal fees, in accordance with regulations promulgated by the comptroller, which were ordered to be paid in fiscal year 2004 or a prior fiscal year; provided, that the comptroller shall report quarterly to the house and senate committees on ways and means on the amounts expended from this item; provided further, that no amount appropriated in this item shall fund attorneys' fees for Boulet, et al v. Cellucci, et al, civil action No. 99-CV-10617-DPW, United States District Court of Massachusetts; provided further, that no funds shall be expended for any settlements pursuant to Superior Court Civil Action No. 03-1913 BLS Allen's Pharmacy Cape Ann, & others vs. Christine C. Ferguson, Acting Commissioner of the Massachusetts Division of Health Care Finance and Policy; provided further, that \$300,000 shall be expended for Namyl, LLC v. L. Bongiorno, et al and its companion cases to be paid to the town of Wilbraham; and provided further, that funds shall be made available for a settlement for the town of Easton . . . . .	\$4,837,211
1599-3837	For the payment to the water pollution abatement trust to fund financial assistance to municipalities and other eligible borrowers to meet debt service obligations incurred by the municipalities and other eligible borrowers after January 1, 1992, to finance the costs of water treatment projects or portions thereof which have been approved by the department of environmental protection, or otherwise authorized by law, and which have been completed, as determined by the department, on or before the promulgation date of the department's regulations related to the implementation of the federal Safe Drinking Water Act . . . . .	\$7,860,000
1599-3838	For a reserve for payment to the water pollution abatement trust	

	to finance the costs of water treatment projects or portions thereof which have been approved by the department of environmental protection, or otherwise authorized by law, after the promulgation date of the department's regulations related to the implementation of the federal Safe Drinking Water Act .....	\$9,118,270
1599-3856	For rent and associated costs at the Massachusetts information technology center in Chelsea .....	\$7,115,000
1599-3857	For capital lease payments from the university of Massachusetts to the Massachusetts development finance agency and for annual operations of the advanced technology and manufacturing center in Fall River .....	\$1,100,000
1599-4121	For a reserve for the payment of a portion of the salary adjustments and other economic items provided for in various collective bargaining agreements negotiated between the board of trustees of the University of Massachusetts and: the USA/MTA (Amherst); the Massachusetts Society of Professors/Faculty Staff Union/MTA/NEA; the Professional Staff Union, Local 509, Service Employees International Union, AFL-CIO/CLC; the University Staff Association/Massachusetts Teachers Association/NEA; the International Brotherhood of Police Officers, Local 432, Units A and B; the International Brotherhood of Teamsters, Local 25 (2 units); the University of Massachusetts and the International Brotherhood of Police Officers, Local 399; the American Federation of State, County and Municipal Employees, AFL-CIO, Council 93, Local 507; the National Association of Government Employees, Local 245; the American Federation of Teachers, Local 1895, AFL CIO, Faculty Federation; the American Federation of Teachers, Local 1895, AFL CIO, Educational Services; International Association of Police Officers, Local 399; the Massachusetts Society of Professors/Lowell; the American Federation of State, County and Municipal Employees, AFL-CIO, Council 93, Local 1776; the Graduate Employee Organization, Local 2322, UAW; the Service Employees' International Union, Local 509, Unit B; the Service Employees' International Union, Local 254, AFL-CIO, CLC, Clerical-Technical Unit; the Service Employees' International Union, Local 254, AFL-CIO, CLC, Professional/Mid-Management Unit; the National Association of Government	

Employees; the Graduate Employee Organization, Local 1596, UAW; and the Graduate Employee Organization Boston, Local 1596, UAW; provided, that the payments shall fund the fiscal year 2005 payments associated with salary adjustments and other economic benefits provided for in such collective bargaining agreements; provided, that the president of the University of Massachusetts shall expend these funds for salary adjustments and other economic items in accordance with this item and the terms of the collective bargaining agreements listed in this item; provided further, that funds appropriated herein shall be transferred by the comptroller to the university based upon a schedule submitted by the president of the University of Massachusetts; provided further, that any requirement that the employer shall submit to the general court a request for an appropriation necessary to fund cost items in a collective bargaining agreement shall not apply to the funding for salary adjustments and other economic items set forth in this item for the collective bargaining agreements listed in this item, notwithstanding chapter 150E of the General Laws, including subsection (c) of section 7 of said chapter 150E or any other general or special law or collective bargaining agreement to the contrary and any contractual requirement relative to allocation of appropriations which would interfere with or impede the payment of salary adjustments and other economic items provided for in this item for the collective bargaining agreements listed in this item shall not apply to the payment of salary adjustments and other economic items, notwithstanding any collective bargaining agreement to the contrary; and provided further, that notwithstanding said chapter 150E or any other general or special law to the contrary, appropriation or expenditure of funds in this item shall not constitute or create an obligation for the commonwealth or any institutions of public higher education to provide any other salary adjustments or economic benefits associated with any fiscal year prior to or other than fiscal year 2005, as otherwise provided in such collective bargaining agreements ..... \$54,670,570

1599-4122 For a reserve for the payment of a portion of the salary adjustments and other economic items provided for in various

collective bargaining agreements negotiated between the board of higher education and: the Association of Professional Administrators; and the American Federation of State, County and Municipal Employees, Council 93, Local 1067, AFL-CIO; provided, that said payments shall fund the fiscal year 2005 payments associated with salary adjustments and other economic benefits provided for in such collective bargaining agreements; provided further, that the chancellor of the board of higher education shall expend these funds for salary adjustments and other economic items in accordance with this item and the terms of the collective bargaining agreements listed in this item; provided further, that funds appropriated herein shall be transferred by the comptroller to the board of higher education based upon a schedule submitted by the chancellor of the board of higher education; provided further, that any requirement that the employer shall submit to the general court a request for an appropriation necessary to fund cost items in a collective bargaining agreement shall not apply to the funding for salary adjustments and other economic items set forth in this item for the collective bargaining agreements listed in this item, notwithstanding chapter 150E of the General Laws, including subsection (c) of section 7 of said chapter 150E or any other general or special law or collective bargaining agreement to the contrary and any contractual requirement relative to allocation of appropriations which would interfere with or impede the payment of salary adjustments and other economic items provided for in this item for the collective bargaining agreements listed in this item shall not apply to the payment of such salary adjustments and other economic items, notwithstanding any collective bargaining agreement to the contrary; and provided further, that notwithstanding said chapter 150E or any other general or special law to the contrary, appropriation or expenditure of funds in this item shall not constitute or create an obligation for the commonwealth or any institutions of public higher education to provide any other salary adjustments or economic benefits associated with any fiscal year prior to than fiscal year 2005, as otherwise provided in such collective bargaining agreement . \$15,461,087

1599-6901 For a reserve to adjust the wages, compensation or salary and as-

sociated employee-related costs to personnel who are employed by private human service providers that deliver human and social services under contracts with departments within the executive office of health and human services and the executive office of elder affairs; provided, that home care workers shall be eligible for funding from this appropriation; provided further, that the secretary of administration and finance may allocate the funds appropriated in this item to the departments in order to implement this initiative; provided further, that the operational services division shall condition the expenditure of the reserve upon assurances that the funds shall be used solely for the purposes of adjustments to wages, compensation or salary; provided further, that not later than February 15, 2005, the division shall submit to the house and senate committees on ways and means a report delineating the number of employees, by job title and average salary, receiving such adjustment in fiscal year 2005 and the average percentage adjustment funded by this reserve; provided further, that the report shall also include, for each contract scheduled to receive any allocation from this item in each such department, the total payroll expenditures in each contract for the categories of personnel scheduled to receive the adjustments; provided further, that no funds from this item shall be allocated to special education programs under chapter 71B of the General Laws, contracts for child care services or programs for which payment rates are negotiated and paid as class rates as established by the division of health care finance and policy; provided further, that no funds shall be allocated from this item to contracts funded exclusively by federal grants as delineated in section 2D; provided further, that the total fiscal year 2005 cost of salary adjustments and any other associated employee costs authorized thereunder shall not exceed \$20,000,000; provided further, that \$10,000,000 shall be expended in fiscal year 2005 to adjust the wages, compensation or salary and associated employee-related costs to personnel earning less than \$25,000 in annual compensation who are employed by private human service providers that deliver human and social services under contracts with departments within the executive office of health and human services and the executive office of elder affairs; provided further, that \$10,000,000 shall be expended

in fiscal year 2005 to adjust the wages, compensation or salary and associated employee-related costs to personnel earning more than \$25,001 and less than \$40,000 in annual compensation who are employed by private human service providers that deliver human and social services under contracts with departments within the executive office of health and human services and the executive office of elder affairs; provided further, that the annualized cost of the adjustments in fiscal year 2006 shall not exceed the amount appropriated herein; and provided further, that the raises provided through this item shall be in addition to any already agreed to or collectively bargained for pay increases . . . . . \$20,000,000

1599-7092 For a reserve for the county correctional programs; provided, that notwithstanding any general or special laws to the contrary, the sheriffs, in conjunction with the county government finance review board, shall maintain and continue to collaborate with the comptroller's office to collect and report all revenue collection and all spending on the Massachusetts Management Accounting and Reporting System; provided further, that the comptroller shall not transfer the funds from this item to item 8910-0000 unless the plan is in place; provided further, that the county government finance review board shall, by January 1, 2005, have developed a plan for the spending of all funds for fiscal year 2005, and developed a sound fiscal spending plan for fiscal year 2006; provided further, that the board shall build the spending plans with the direct input of the seven sheriffs still functioning under the county government system; provided further, that by January 15, 2005 the board shall report all spending plans to the house and senate committees on ways and means; provided further, that the information shall satisfy all fiscal requirements for a maintenance level of funding, including, but not limited to, collective bargaining increases, legal fees, debt services, one time costs, energy costs, equipment leases, medical costs, and workers' compensation issues; provided further, that no other spending information or requests shall be submitted to the house and senate committees on ways and means by the individual sheriffs until February 15, 2005; provided further, that the board shall also provide a projection of all county funds to be collected for fiscal year 2005 and 2006; provided further, that the board shall release all funds

	from fiscal year 2005 quarterly; provided further, that any sheriff that spends more than the quarterly approved budget shall have the money allocated for the following quarter reduced by the excess amount overspent in the previous quarter; and provided further, that it is the intent of the General Court that funds shall not be spent from this item nor any funds be transferred from this item to another item until all of aforementioned restrictions and conditions have been satisfied .....	\$39,319,632
1599-7104	For a reserve for the facilities costs associated with the college of visual and performing arts at the University of Massachusetts at Dartmouth; provided, that funds may be expended for Bristol community college .....	\$2,565,093

*Division of Human Resources.*

1750-0100 For the operation of the human resources division and the costs of administration, training, and customer support related to the commonwealth's human resources and compensation management system; provided, that the information technology division shall continue a chargeback system for its bureau of computer services including the operation of the commonwealth's human resources and compensation management system, which complies with the requirements of section 2B; provided further, that the division shall be responsible for the administration of examinations for state and municipal civil service titles, establishment of eligible lists, certification of eligible candidates to state and municipal appointing authorities, technical assistance in selection and appointment to state and municipal appointing authorities; provided further, that notwithstanding clause (n) of section 5 of chapter 31 of the General Laws or any other general or special law to the contrary, the commissioner of administration shall charge a fee of not less than \$50 to be collected from each applicant for a civil service examination; provided further, that no funds shall be obligated for purposes of executive search programs except any executive search program which may be conducted pursuant to Executive Order 227 adopted on February 25, 1983; provided further, that the division shall administer a program of state employee unemployment man-

agement, including, but not limited to, agency training and assistance; provided further, that the division shall administer the statewide classification system, including, but not limited to, maintaining a classification pay plan for civil service titles within the commonwealth in accordance with generally accepted compensation standards and reviewing appeals for reclassification; provided further, that upon certification of any open competitive list for a public safety position in a city or town, the personnel administrator shall cause to be published in a newspaper of general circulation in a city or town, public notice that such eligible list has been certified along with the notice of the last date to respond to the notice of circulation; provided further, that the secretary for administration and finance shall file with the house and senate committees on ways and means the amounts of any and all economic benefits necessary to fund any incremental cost items contained in any collective bargaining agreements with the various classified public employees' unions; provided further, that the nature and scope of economic proposals contained in such agreements shall include all fixed percentage or dollar based salary adjustments, non-base payments or other forms of compensation and all supplemental fringe benefits resulting in any incremental costs; and provided further, that any employee of the commonwealth who chooses to participate in a bone marrow donor program or an organ donor transplant program shall be granted a leave of absence with pay to undergo the medical procedure and for associated physical recovery time, but this leave shall not exceed 5 days ..... \$3,825,000

1750-0102 The human resources division may expend revenues up to a maximum of \$1,327,500 from fees charged to applicants for civil service and non-civil service examinations and fees charged for the costs of goods and services rendered in administering training programs; provided, that the division shall collect from participating non-state agencies, political subdivisions, and the general public fees sufficient to cover all costs of the programs, including, but not limited to, a fee to be collected from each applicant for a civil service examination or non-civil examination, notwithstanding paragraph (n) of section 5 of chapter 31 of the General Laws

	or any other general or special law to the contrary; and provided further, that notwithstanding any general or special law to the contrary, for the purpose of accommodating timing discrepancies between the receipt of retained revenues and related expenditures, the division may incur expenses and the comptroller may certify for payment amounts not to exceed the lower of this authorization or the most recent revenue estimate therefore as reported in the state accounting system . . . .	\$1,327,500
1750-0111	For the planning and implementation of a civil service continuous testing program and the operation of the bypass appeals process program; provided, that the division shall file quarterly reports with the house and senate committees on ways and means detailing the number of tests administered and the amount of revenue collected through said program . . . .	\$102,437
1750-0119	For payment of workers' compensation benefits to certain former employees of Middlesex and Worcester counties; provided, that the division shall routinely recertify said former employees pursuant to current workers' compensation procedures . . . . .	\$233,350
1750-0201	The division may expend an amount not to exceed \$163,115 for implementation of the medical and physical fitness standards program established pursuant to sections 61A and 61B of chapter 31 of the General Laws and chapter 32 of the General Laws; provided, that the personnel administrator shall charge a fee of not less than \$50 to be collected from each applicant who participates in the physical ability test; provided further, that the human resources division shall submit a semi-annual report to the house and senate committees on ways and means detailing all expenditures on said program including, but not limited to, the costs of personnel, consultants, administration of the wellness program, establishment of standards and any other related costs of said program; and provided further, that said division shall report to the house and senate committees on ways and means by February 1, 2005 on the projected costs of said program for fiscal year 2005 . . . . .	\$163,115
1750-0300	For the commonwealth's contributions in fiscal year 2005 to health and welfare funds established pursuant to certain collective bargaining agreements; provided, that the contributions shall be calculated as provided in the applicable collective bargaining agreement and shall be paid to such health and welfare trust funds on a monthly basis or on such	

other basis as the applicable collective bargaining agreement provides ..... \$20,284,800

*Operational Services Division.*

1775-0100 For the operation of the operational services division; provided, that the division shall expend funds for the purpose of achieving savings pursuant to provisions included in this act ..... \$1,300,000

1775-0110 The operational services division may expend for the costs associated with the Comm-PASS computer system an amount not to exceed \$20,000 from revenues collected from the use of Comm-PASS by government entities other than state agencies and the sale of advertising space on Comm-PASS ..... \$20,000

1775-0124 The operational services division may expend an amount not to exceed \$300,000 from revenue collected in the recovery of cost-reimbursement and non-reimbursable over billing and recoupment for health and human service agencies and as a result of administrative reviews, as determined during the division's audits and reviews of providers pursuant to section 274 of chapter 110 of the acts of 1993; provided that, the division may only retain revenues collected in excess of \$207,350 ..... \$300,000

1775-0600 The operational services division may expend revenues collected up to a maximum of \$100,000 from the sale of state surplus personal property, including the payment, expenses and liabilities for the acquisition, warehousing, allocation and distribution of surplus property; provided, that for the purpose of accommodating discrepancies between the receipt of retained revenues and related expenditures, the operational services division may incur expenses and the comptroller may certify for payment amounts not to exceed the lower of this authorization or the most recent revenue estimate as reported in the state accounting system, including the costs of personnel ..... \$100,000

1775-0700 The operational services division may expend revenues collected up to a maximum of \$53,000 in addition to the amount authorized in item 1775-1000 of section 2B, for printing, photocopying, related graphic art or design work and other reprographic goods and services provided to the general public, including all necessary incidental expenses ..... \$53,000

Chap. 149

- 1775-0900 The operational services division may expend revenues in an amount not to exceed \$55,000 collected pursuant to chapter 449 of the acts of 1984 and section 4L of chapter 7 of the General Laws, including the costs of personnel, from the sale of federal surplus property, including the payment, expenses and liabilities for the acquisition, warehousing, allocation and distribution of federal surplus property; provided, that for the purpose of accommodating discrepancies between the receipt of retained revenues and related expenditures, the operational services division may incur expenses and the comptroller may certify for payment amounts not to exceed the lower of this authorization or the most recent revenue estimate as reported in the state accounting system ..... \$55,000
- 1775-1100 The operational services division may expend revenues in an amount not to exceed \$250,000 collected from the disposal of surplus motor vehicles, including, but not limited to, state police vehicles from vehicle accident and damage claims and from manufacturer warranties, rebates and settlements, for the purchase of motor vehicles; provided, that for the purpose of accommodating discrepancies between the receipt of retained revenues and related expenditures, the operational services division may incur expenses and the comptroller may certify for payment amounts not to exceed the lower of this authorization or the most recent revenue estimate as reported in the state accounting system, including the costs of personnel ..... \$250,000

*Information Technology Division.*

- 1790-0100 For the operation of the information technology division; provided, that the division shall continue a chargeback system for its bureau of computer services including the operation of the commonwealth's human resources and compensation management system, which complies with the requirements of section 2B; provided further, that the division shall develop a formula to determine the cost that will be charged to each agency for its use of the human resources and compensation management system; provided further, that the division may coordinate with any state agency or state authority which administers a grant program to develop a statewide grant information page on the commonwealth's official worldwide

web site, that shall include all necessary application forms and a grant program reference in a format that is retrievable and printable; provided further, that the division shall continue conducting audits and surveys to identify and realize savings in the acquisition and maintenance of communications lines; provided further, that the commissioner shall file an annual status report with the house and senate committees on ways and means by May 16, 2005 with actual and projected savings and expenditures for the audits in the fiscal year ending June 30, 2005; provided further, that the state comptroller shall establish accounts and procedures as he deems appropriate and necessary to assist in accomplishing the purposes of this item; provided further, that any planned information technology development project or purchase by any agency under the authority of the governor for which the total projected cost exceeds \$200,000 including the cost of any related hardware, software, or consulting fees, and regardless of fiscal year or source of funds, shall be reviewed and approved by the chief information officer before such agency may obligate funds for such project or purchase; and provided further, that the chief information officer may establish such rules and procedures as he deems necessary to implement this item . . . . . \$5,200,000

1790-0300 The information technology division may expend up to a maximum of \$447,404 in revenues collected from the provision of computer resources and services to the general public for the costs of the bureau of computer services, including the purchase, lease or rental of telecommunications lines, services and equipment . . . . . \$447,404

**EXECUTIVE OFFICE OF ENVIRONMENTAL AFFAIRS**  
*Office of the Secretary.*

2000-0100 For the office of the secretary, including the water resources commission, the hazardous waste facility site safety council, the coastal zone management program, environmental impact reviews conducted pursuant to chapter 30 of the General Laws, the mosquito-borne disease vector control chapter program, and a central data processing center for the secretariat; provided, that the secretary of environmental affairs may enter into interagency agreements with any line agency within the

secretariat, whereby the line agency may render data processing services to said secretary; provided further, that the comptroller may allocate the costs for such data processing services to the several state and other funds to which items of appropriation of such agencies are charged; provided further, that said secretary shall file a plan with the house and senate committees on ways and means 20 days before entering into any interdepartmental service agreements with any of the departments or divisions under said secretariat or any department, division or office under the executive office of administration and finance; provided further, that funds may be expended for volunteer water monitoring grants; provided further, that \$100,000 shall be expended for a coastal shore water testing program administered by the Coalition for Buzzards Bay; provided further, that funds may be expended on the watershed initiative; and provided further, that the secretary, in conjunction with the commissioner of the department of capital asset management and maintenance, shall submit a building condition assessment report to the house and senate committees on ways and means by December 6, 2004 detailing a plan to repair the building on 20 Somerset Street that houses the department of conservation and recreation; provided further, that said report shall include, but not be limited to, the following: (1) a list of structural deficiencies, (2) a list of heating, ventilation, and air-conditioning system deficiencies, (3) a list of projects that are required to update said building to comply with current standards including any sprinkler, American with disabilities act improvements or other such improvements, (4) an environmental assessment done in conjunction with the department of public health to identify any environmental hazards including asbestos and lead hazards, (5) total project costs and cost estimates delineated by specific repair, (6) an estimate of the time to complete said repairs, (7) a plan on how to minimize staff disruption by examining the possibility of repairing portions of the building while staff inhabit other portions, (8) a plan to minimize the cost of leased space if staff have to move to privately owned or operated buildings . . . \$7,575,647

2000-9900 For the office of geographic and environmental information established pursuant to section 4B of chapter 21A of the General Laws . . . . . \$278,791

---

**Chap. 149**

- 2000-9912 The executive office of environmental affairs may expend an amount not to exceed \$400,000 from additional fees paid on the registration of watercrafts as described in this act, for milfoil, fanwort, and other exotic plants prevention grant program ..... \$400,000
- 2001-1001 The secretary of environmental affairs may expend an amount not to exceed \$125,000 accrued from fees charged to authorities and units of government within the commonwealth, other than state agencies, for the distribution of digital cartographic and other data, and the review of environmental notification forms pursuant to sections 61 to 62H, inclusive, of chapter 30 of the General Laws, for the purposes of providing those services ..... \$125,000
- 2010-0100 For recycling and related purposes consistent with the recycling plan of the solid waste master plan which includes municipal equipment, a municipal recycling incentive program, recycled product procurement, guaranteed annual tonnage assistance, recycling transfer stations, source reduction and technical assistance, consumer education and participation campaign, municipal household hazardous waste program, the recycling loan program, research and development, recycling market development and recycling business development, and the operation of the Springfield materials recycling facility; provided, that the department shall be prohibited from increasing the number of full-time employees paid from this item above the number assigned to this item on March 1, 2003; provided further, that funds may be expended for a recycling industry reimbursement program pursuant to section 24I of chapter 43 of the acts of 1997; and provided further, that funds may be expended on municipal recycling incentives and equipment grants ..... \$2,140,647
- 2010-0200 For redemption centers; provided, that the department of environmental protection shall expend the funds appropriated herein for a program to preserve the continuing ability of redemption centers to maintain operations in pursuit of the commonwealth's recycling goals consistent with section 323 of chapter 94 of the General Laws; provided further, that for the purposes of this item and said chapter 94, a redemption center shall be any business registered with the commonwealth whose primary purpose is the redemption of reusable beverage containers; provided further, that such program shall

take into consideration the volume of redeemables per redemption center, the length of time such center has been in operation, the number of returnables redeemed quarterly by such centers, the submission by such centers of documentation of their redeemed returnables to the department and the costs of transportation, packing, storage and labor; and provided further, that said redemption centers shall be eligible for such funds if they were registered with the commonwealth as of April 1, 2003\$1,375,000

2020-0100 For toxics use reduction technical assistance and technology, in accordance with chapter 21I of the General Laws\$1,299,323

2030-1000 For the operation of the office of environmental law enforcement; provided, that officers shall provide monitoring pursuant to the National Shellfish Sanitation Program; and provided further, that funds from this item shall not be expended for the purposes of item 2030-1004\$9,702,003

2030-1004 For environmental police private details; provided, that the office may expend revenues of up to \$250,000 collected from fees charged for private details\$250,000

*Department of Environmental Protection.*

2200-0100 For the operation of the department of environmental protection, including the environmental strike force, the office of environmental results and strategic planning, the bureau of resource protection, the Senator William X. Wall experimental station, and a contract with the University of Massachusetts for environmental research, notwithstanding the provisions of section 323F of chapter 94 of the General Laws; provided, that the provisions of section 3B of chapter 7 of the General Laws shall not apply to fees established pursuant to section 18 of chapter 21A of the General Laws; provided further, that enactment of the appropriations made available by this act to the department shall be deemed a determination, pursuant to subsection (m) of section 19 of chapter 21A of the General Laws; provided further, that \$168,000 shall be expended for sediment control in Lake Webster; provided further, that funds may be expended for a water resource identification project in the town of Carver; provided further, that \$350,000 shall be expended for coastal pollution remediation for storm water discharge to improve the water quality of Buzzards Bay

Chap. 149

	in the town of Dartmouth; and provided further, that funds may be expended for the purpose of conducting a Comprehensive Site Assessment of South Meadow Pond and the presence of leachate from the former Clinton Landfill site . . .	\$28,373,935
2200-0102	The department of environmental protection may expend an amount not to exceed \$1,200,000 from revenues collected from fees collected from wetland permits; provided, that notwithstanding any general or special law to the contrary, for the purpose of accommodating timing discrepancies between the receipt of revenues and related expenditures, the department may incur expenses and the comptroller may certify for payment the amounts not to exceed the lower of this authorization or the most recent revenue estimate as reported in the state accounting system; provided further, that the department shall submit a report by January 11, 2005 on implementation of the wetlands fee, the amount of the fee increase and the revenue that has been collected; and provided further, that the wetlands fees that were directed into the General Fund shall not be lower than the amount deposited at the end of fiscal year 2004 . . . . .	\$1,200,000
2210-0100	For the implementation and administration of chapter 21I of the General Laws; provided, that the department shall submit a report to the house and senate committees on ways and means on or before February 1, 2005 detailing the status of the department's progress in meeting the statutory and regulatory deadlines associated with said chapter 21I and detailing the number of full-time equivalent positions assigned to various implementation requirements of said chapter 21I . . . . .	\$918,782
2220-2220	For the administration and implementation of the federal Clean Air Act, including the operating permit program, the emissions banking program, the auto related state implementation program, the low emission vehicle program, the non-auto related state implementation program, and the commonwealth's commitments under the New England Governor's/Eastern Canadian Premier's Action Plans for reducing acid rain deposition and mercury emissions . . . . .	\$899,814
2220-2221	For the administration and implementation of the operating permit and compliance program required under the federal Clean Air Act . . . . .	\$1,877,420
2250-2000	For the purposes of state implementation of the federal Safe Drinking Water Act under section 18A of chapter 21A of the	

General Laws .....	\$1,506,194
2260-8870 For the expenses of the hazardous waste cleanup and underground storage tank programs, notwithstanding section 323F of chapter 94 of the General Laws and section 4 of chapter 21J of the General Laws; provided, that the department of environmental protection shall be obligated to test and remediate solid waste contamination at the Rivers Edge development in Methuen; provided further, that the department shall submit a report to the house and senate committees on ways and means on or before October 1, 2004 detailing the number of full-time equivalent positions assigned to tier IA, tier IB, tier IC and tier II projects; and provided further, that \$90,000 shall be expended for Brownfield redevelopment in the City of Lynn .....	\$14,240,365
2260-8872 For the brownfields site audit program .....	\$1,741,362
2260-8881 For the operations of the board of registration of hazardous waste site cleanup professionals, notwithstanding section 19A of chapter 21A of the General Laws .....	\$334,308

*Department of Fish and Game.*

2300-0100 For the office of the commissioner; provided, that the commissioners office shall assess and receive payments from the division of marine fisheries, the division of fisheries and wildlife, the public access board, the riverways programs, and all other programs under the control of the department of fish and game; provided further, that the purpose of said assessments shall be to cover appropriate administrative costs of the department, including but not limited to payroll, personnel, legal and budgetary costs; and provided further, that said amount and contribution from each division or program shall be determined by the commissioner of fish and game .....	\$450,001
2300-0101 For a program of riverways protection, restoration and promotion of public access to rivers, including grants to public and non-public entities; provided, that the positions funded in this item shall not be subject to chapter 31 of the General Laws .....	\$401,147
2310-0200 For the administration of the division of fisheries and wildlife, including expenses of the fisheries and wildlife board, the administration of game farms and wildlife restoration projects, for wildlife research and management, the administration of	

fish hatcheries, the improvement and management of lakes, ponds and rivers, for fish and wildlife restoration projects, the commonwealth's share of certain cooperative fishery and wildlife programs, and for certain programs reimbursable under the federal Aid to Fish and Wildlife Restoration Act; provided, that funds from this item shall be made available to the University of Massachusetts at Amherst for the purposes of wildlife and fisheries research in an amount not to exceed the amount received in fiscal year 2004 for such research; provided further, that funds may be expended to supplement the natural heritage and endangered species program; provided further, that \$200,000 shall be expended to continue to operate fish hatcheries in the towns of Montague and Sandwich; provided further, that the department shall expend the amount necessary to restore anadromous fish in the Connecticut and Merrimack river systems; provided further, that expenditures for such programs shall be contingent upon prior approval of the proper federal authorities for reimbursement of at least 75 per cent of the amount so expended; and provided further, that \$25,000 shall be expended for a matching grant to repair a culvert on brook hollow road on the mill river in the town of Hatfield, in cooperation with the United States fisheries and wildlife service, to improve stream flow and promote the migration of anadromous fish . . . . . \$7,307,279

    Inland Fisheries and Game Fund . . . . . 100.0%

2310-0316 For the purpose of land containing wildlife habitat and for the costs of the division of fisheries and wildlife directly related to the administration of the wildlands stamp program pursuant to sections 2A and 2C of chapter 131 of the General Laws; provided, that funds shall not be expended from this item in the AA subsidiary for the compensation of state employees assigned to any item . . . . . \$1,500,000

    Inland Fisheries and Game Fund . . . . . 100.0%

2310-0317 For the waterfowl management program pursuant to section 11 of chapter 131 of the General Laws . . . . . \$100,000

    Inland Fisheries and Game Fund . . . . . 100.0%

2320-0100 For the administration of the public access board, including the maintenance, operation, and improvements of public access land and water areas as authorized by section 17A of chapter 21 of the General Laws; provided, that \$350,000 shall

be expended for the design, construction and repair of the Kernwood Marina parking lot, drainage system and boat ramp; provided further, that \$50,000 shall be expended for the repair of the state boat ramp on Apponagansett Bay in the town of Dartmouth; provided further, that \$75,000 shall be expended for a floating dock system at the Plymouth State Boat Ramp; provided further, that trash dumpsters shall be prohibited in all public landings situated in residential areas; provided further, that the division of fisheries and wildlife shall post signs in said areas prohibiting littering; provided further, that said signs shall require users of said public landings to carry off all personal belongings and trash; and provided further, that positions funded herein shall not be subject to the provisions of chapter 31 of the General Laws . . . \$945,092

2330-0100 For the operation of the division of marine fisheries, including expenses of the Annisquam river marine research laboratory, marine research programs, a commercial fisheries program, a shellfish management program including coastal area classification, mapping and technical assistance, and for the operation of the Newburyport shellfish purification plant and shellfish classification program; provided, that \$300,000 shall be expended on a recreational fisheries program to be reimbursed by federal funds; provided further, that not less than \$333,000 shall be expended for the operation of the Newburyport shellfish purification plant and that plant shall generate not less than \$115,000 from purification fees; provided further, that not less than \$45,000 shall be expended for shellfish propagation on the islands of Martha's Vineyard and Nantucket to be administered by the state aquaculture coordinator and Dukes and Nantucket counties; provided further, that not less than \$90,000 shall be expended for the joint operation of a shellfish propagation program on Cape Cod between the division and Barnstable County Department of Health and Environment; provided further, that \$50,000 shall be expended for the National Marine Life Center in the town of Bourne; provided further, that the sum expended for the School for Marine Science and Technology to help mitigate the negative economic impact to the Massachusetts ports which has resulted from the change in federal fisheries regulations in fiscal year 2005 shall not be reduced from fiscal year 2004 except in proportion to adjustments consistent with

---

## Chap. 149

	the department's budget adjustment; and provided further, that funds shall be expended for the Center for Marine Science and Technology for research to minimize the economic impact of new fisheries management regulations shall not be reduced from fiscal year 2004 except in proportion to adjustments consistent with the department's budget adjustment . . . .	\$3,930,804
2330-0120	For the division of marine fisheries for a program of enhancement and development of marine recreational fishing and related programs and activities, including the cost of equipment maintenance, staff and the maintenance and updating of data . . . . .	\$530,836
2330-0121	For the division of marine fisheries to utilize reimbursable federal sportfish restoration funds to further develop marine recreational fishing and related programs, including the costs of activities that increase public access for marine recreational fishing, support research on artificial reefs, and otherwise provide for the development of marine recreational fishing; provided, that the division of marine fisheries may expend revenues up to \$167,898 collected from federal sportfish restoration funds and from the sale of materials which promote marine recreational fishing . . . . .	\$167,898
2350-0101	For the hunter safety training program . . . . .	\$450,000
	Inland Fisheries and Game Fund . . . . .	100.0%

### *Department of Agricultural Resources.*

2511-0100	For the operation of the department of agricultural resources, including the office of the commissioner, the expenses of the board of agriculture, the division of dairy services, the division of regulatory services and animal health, including a program of laboratory services at the University of Massachusetts at Amherst, the expenses of the pesticides board, the division of agricultural development and fairs; provided, that notwithstanding any general or special law or regulation to the contrary, any regulation promulgated or enforced by said department that, if finally enforced with regard to a person or entity violating said regulation, would cause the closure of a business or the loss of a license issued by said department and ultimately result in job loss to such persons or entities shall be reviewed by the division of administrative law appeals in an expedited fashion prior to final enforcement	
-----------	---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	--

of said regulation unless said closure and/or license revocation is designated as a public health emergency by the commissioner of said department; provided further, that said person or entity shall be entitled to present to said division, at the time of said review, information summarizing the economic impact that would result from final enforcement as it relates to the nature of the violation alleged by said department; provided further, that \$100,000 shall be expended for 4 H activities from this item; provided further, that funds may be expended for the Southeastern Massachusetts Agricultural Partnership; provided further, that funds may be expended for agricultural fair prizes and rehabilitation, including the expenses of the agricultural lands board; provided further, that the department shall, to the extent possible, encourage corporate sponsorships for the purposes of providing agricultural fair prizes; and provided further, that funds may be expended for implementation of the agricultural marketing strategic plan, including, but not limited to, a "Buy Local" campaign and funding for agricultural business training and technical assistance . . . . . \$3,725,650

- 2511-0105 For the purchase of supplemental foods for the emergency food assistance program within the second harvest nationally-certified food bank system of Massachusetts; provided, that the funds appropriated herein shall be expended for food to be distributed by the greater Boston food bank as follows: 73.5 per cent to the greater Boston food bank, including a portion to be distributed to the Merrimack Valley food bank under a contractual agreement between the food bank and the greater Boston food bank, 15.2 per cent to the food bank of western Massachusetts, and 11.3 per cent to the Worcester county food bank; and provided further, that the department is authorized to assess an administrative charge not to exceed two per cent of the total appropriation herein . . . . . \$6,280,000
- 2511-3002 For the Integrated Pest Management program . . . . . \$100,000

*Department of Conservation and Recreation.*

2800-0100 For the operation of the department of conservation and recreation; provided, that said department shall enter into an interagency agreement with the department of state police to provide police coverage on department of conservation and

recreation properties and parkways; provided further, that the department of state police shall reimburse said department of conservation and recreation for costs incurred by said department including, but not limited to vehicle maintenance and repairs, the operation of department of state police buildings and other related costs; provided further, that notwithstanding the provisions of any general or special law to the contrary, all offices and positions of the division performing construction activities for the department of conservation and recreation shall be subject to classification under sections 45 to 50, inclusive, of chapter 30 of the General Laws; provided further, that notwithstanding the provisions of section 3B of chapter 7 of the General Laws, the department is hereby authorized and directed to establish or renegotiate fees, licenses, permits, rents and leases, and to adjust or develop other revenue sources to fund the maintenance, operation, and administration of said department; provided further, that an annual report shall be submitted to the house and senate committees on ways and means regarding fee adjustments not later than February 14, 2005; provided further, that notwithstanding the provisions of any general or special law or administrative bulletin to the contrary, the department shall not pay any fees charged for the leasing or maintenance of vehicles to the operational services division; provided further, that no funds shall be expended from this item for personnel overtime costs; provided further, that the department of conservation and recreation shall file a report with the house and senate committees on ways and means no later than December 6, 2004 detailing the merger of the former metropolitan district commission with the former department of environmental management into the department of conservation and recreation; provided further, that said report shall include, but not be limited to, the following: (1) the names, salaries, and the positions of all full time equivalent, so-called personnel that were scheduled to be paid out of item 2800-0100 as of September 1, 2003, March 1, 2004 and August 1, 2004, (2) the job descriptions, employee name, current job title, and the item of appropriation said employees were assigned to in fiscal years 2002 and 2003 and the item of appropriation that they are currently funded from, (3) a list by subsidiary and object code of all expenditures or

allocations from items of appropriations under the executive office of environmental affairs in fiscal year 2004 on the commonwealth development coordinating council, (4) a list of all deputy commissioners and deputy associate commissioners, and their assigned duties, (5) the number of full time equivalent positions, so-called that have been eliminated due to said merger, (6) any efficiencies that have been achieved from said merger; provided further, that said secretary shall file a report on the number of employees funded through capital authorizations with the house and senate committees on ways and means no later than December 6, 2004, that shall include, but not be limited to, the following: (1) the number of full time equivalent positions so-called, delineated by fiscal year, item of appropriation and position number, job title and job code for that have been funded from capital authorizations for fiscal years 2001 to 2005 inclusive, for every item of appropriation under control of said secretary, (2) every program that has been funded from capital authorizations for fiscal years 2001 to 2005 inclusive delineated by fiscal year, program and item of appropriation, (3) detail every full time equivalent, so-called and program that has been moved to capital authorizations since fiscal year 2001; and provided further, that \$60,000 shall be expended for the Martha's Vineyard Commission . . . . . \$5,023,416

2800-0101 For the watershed management program to operate and maintain reservoirs, watershed lands and related infrastructure of the department and the office of water resources in the department of conservation and recreation; provided, that \$500,000 shall be paid to the town of Clinton, under section 8 of chapter 307 of the acts of 1987, to compensate for the use of certain land; provided further, that the amount of the payment shall be charged to the General Fund and not be included in the amount of the annual determination of fiscal year charges to the Massachusetts Water Resources Authority assessed to the authority under section 113 of chapter 92 of the General Laws; provided further, that \$48,000 shall be expended for the flood control activities undertaken by the Thames River Valley communities of Massachusetts in conjunction with the state of Connecticut; provided further, that \$80,000 shall be expended for a Buzzards Bay water quality restoration projects including, but not limited to engineering and permitting

costs for restoration in Mattapoisett of the Eel Pond drainage culvert, storm separators in West Island and Little Bay in the Town of Fairhaven and similar water quality projects in Buzzards Bay; provided further, that \$100,000 shall be expended for Pine Tree Brook in the town of Milton to implement phase IV of a project for clearing and dredging; provided further, that \$25,000 shall be expended for aquatic weed control treatments in the Upper Mystic Lake; provided further, that \$8,000 shall be expended for the protection and rehabilitation of the Wachusett Reservoir Dam 5 area in the town of Clinton; provided further, that the water assets management project include the towns of Plymouth, Carver, Wareham, Plympton, Bourne, Middleborough, and Kingston; and provided further, that the department develop and implement a written plan to protect and manage the Plymouth-Carver sole source aquifer in consultation with these 7 towns ..... \$1,367,114

2800-0200 For the operation of the Commonwealth Zoological Corporation pursuant to chapter 92B of the General Laws; provided, that \$50,000 shall be expended for the Buttonwood Park Zoo; provided further, that \$50,000 shall be expended for the Forest Park Zoo; provided further, that funds appropriated in this item shall be expended for the purposes of promoting private fundraising, achieving self-sufficiency and serving as a catalyst for urban economic development and job opportunities for local residents; provided further, that the corporation shall take all steps necessary to increase the amount of private funding available for the operation of the zoos; provided further, that the corporation shall report to the house and senate committees on ways and means not later than February 1, 2005 on the status of, and amounts collected from, the private fundraising and enhanced revenue efforts identified in the draft Massachusetts Zoos Business and Operations Plan, dated December, 1996; and provided further, that the corporation shall continue to provide free services and supplies including, but not limited to, routine animal check-ups, diagnosis and care, emergency veterinary needs, medications and medical supplies, vitamins and diet supplements and Zoo Prem feline diet, to the trailside museum and the Chickatawbut Hill Center in the town of Milton ..... \$5,000,000

Chap. 149

2800-9004	For certain payments for the maintenance and use of the trailside museum and the Chickatawbut Hill center .....	\$375,000
2810-0100	For the operations of the division of state parks and recreation; provided, that funds appropriated herein shall be used to operate all of the division's parks, heritage state parks, reservations, campgrounds, beaches, pools, and, for the oversight of rinks, to protect and manage the division's lands and natural resources including the forest and parks conservation services and the bureau of forestry development; provided further, that no funds from this item shall be made available for payment to true seasonal employees; provided further, that the department is authorized to issue grants to public and non-public entities from this item; provided further, that \$99,000 shall be expended for repairs to the portico at Pilgrim State Park; provided further, that \$50,000 shall be expended for the improvement and reconstruction of the Daly Field located in the Allston-Brighton section of the City of Boston; provided further, that \$100,000 shall be expended for the Schooner Ernestina Commission; and provided further, that \$50,000 shall be expended for a public waterfront accessibility project on Plum Island in the City of Newburyport .....	\$17,749,682
2810-2000	For the seasonal hires of the division of state parks and recreation, including hires for the forest fire control unit; provided, that no funds from this item shall be expended for year-round seasonal employees; provided further, that seasonal employees who are hired prior to the second Sunday before Memorial Day and whose employment continues beyond the Saturday following Labor Day and who received health insurance benefits in fiscal year 2004 shall continue to receive such benefits in fiscal year 2005 during the period of their seasonal employment; provided further, that no expenditures shall be made from the amount appropriated other than for those purposes identified herein; provided further, that notwithstanding section 1 of chapter 31 of the General Laws, seasonal positions funded by this item are positions requiring the services of an incumbent, on either a full-time or less than full-time basis beginning not earlier than April 1 and ending not later than November 30, or beginning not earlier than September 1 and ending not later than April 30; provided further, that funds shall be expended for 2 additional summer	

	staff positions at the Lawrence Heritage State Park; and provided further, that notwithstanding the section 1 of the chapter 31, seasonal positions funded by this item shall not be filled by an incumbent for more than 8 months within a 12-month period .....	\$5,417,735
2810-2040	The division of state parks and recreation may expend revenues collected up to a maximum of \$3,703,218 from fees charged by the division, including revenues collected from campsite reservation transactions from the automated campground reservation and registration program for additional expenses, upkeep and improvements to the parks and recreation system of the division; provided, that no funds from this item shall be expended for the costs of personnel, including seasonal employees; provided further, that for the purpose of accommodating timing discrepancies between the receipt of retained revenues and related expenditures, the division may incur expenses and the comptroller may certify for payment amounts not to exceed the lower of this authorization or the most recent revenue estimate therefore as reported in the state accounting system; provided further, that no expenditures made in advance of the receipts shall be permitted to exceed 75 per cent of the amount of revenues projected by the first quarterly statement required by section 1B; provided further, that the comptroller shall notify the budget director and the chairmen of the house and senate committees on ways and means at the time subsequent quarterly statements are published of the variance between actual and projected receipts in each such quarter and the implications of that the variance for expenditures made; and provided further, that the division may issue grants to public and nonpublic entities from this item .....	\$3,703,218
2820-0100	For the administration, operation and maintenance of the division of urban parks and recreation including, for the maintenance, operation and related costs of the parkways, boulevards, roadways, bridges and related appurtenances under the care, custody and control of the division, flood control activities of the division, purchase of all necessary supplies and related equipment, and the civilianization of crossing guards located at division intersections where state police previously performed such duties; provided, that said parkways, boulevards, roadways, bridges and related appurtenances under the care	

and custody of the metropolitan district commission in fiscal year 2003 shall remain solely under the jurisdiction, custody and care of the division of urban parks and recreation; and provided further, that no funds from this item shall be made available for payment to true seasonal employees; provided further, that \$150,000 shall be expended for Legion Park in the town of Weymouth; provided further, that not less than \$3,902 shall be expended on additional school crossing guards for the corner of Mystic Avenue and Shore Drive in the city of Somerville; provided further, that \$250,000 shall be expended for a linked trail system for state and local parks along the Back River in the town of Weymouth; provided further, that \$30,000 shall be expended for child safety equipment in the town of Milford; provided further, that \$45,000 shall be expended on the maintenance of Red Rock Park on Lynn Shore Drive, in the city of Lynn; provided further, that said Division shall file a report with the house and senate committees on ways and means no later than October 1, 2004 on the reconstruction on the Vietnam Veterans Memorial Pool in Chelsea; provided further, that said report shall include, but not be limited to the following: (a) the current condition of the pool and all related structures, (b) a detailed list of all structural deficiencies, (c) a detailed cost estimate to repair said pool and structures, (d) an estimate of the time to complete said repairs, (e) and any other information that said division deems necessary for the completion of this report; provided further, that \$225,000 shall be expended for maintenance and infrastructure repair of the southwest corridor park; provided further, that \$50,000 shall be expended for the removal of a pedestrian bridge at the end of Fairlawn Street in the City of Malden; provided further, that \$50,000 shall be expended for flood mitigation at Fellsmere Pond; provided further, that \$247,000 shall be expended for the James Michael Curley Recreation Center in Boston; provided further that \$85,000 shall be expended for the town of Boylston; and provided further that funds shall be expended for environmental preservation of the historic Park Avenue Fire Barn in Worcester ..... \$20,186,478

2820-0101 For the costs associated with the department's urban park rangers specific to the security of the state house; provided, that the

	commissioner shall collaborate and coordinate with the legislature's joint committee on rules on the development of a plan of security for the state house; and provided further, that funds appropriated in this item shall only be expended for the costs of security and urban park rangers at the state house . . . .	\$1,750,000
2820-0200	For seasonal hires of the division of urban parks and recreation; provided, that no funds in this item shall be used for year-round seasonals; provided further, that notwithstanding section 1 of chapter 31 of the General Laws, seasonal positions funded by this item are positions requiring the services of an incumbent, on either a full-time or less than full-time basis beginning not earlier than April 1 and ending not later than November 30, or beginning not earlier than September 1 and ending not later than April 30; and provided further, that notwithstanding section 1 of chapter 31, seasonal positions funded by this item shall not be filled by an incumbent for more than 8 months within a 12 month period . . . .	\$2,991,820
2820-1000	The division of urban parks and recreation may expend, an amount not to exceed \$200,000 from revenue generated pursuant to section 34B of chapter 92 of the General Laws . . . .	\$200,000
2820-1001	The division of urban parks and recreation may expend \$50,000 for the operation and maintenance of the division's telecommunications system from revenues received from the Massachusetts Water Resources Authority, the Massachusetts Convention Center Authority, the department of highways central artery/Ted Williams tunnel project, the department of state police and quasi-public and private entities through a system of user fees and other charges established by the commissioner of conservation and recreation; provided, nothing in this item shall impair or diminish the rights of access and utilization of all current users of the system under agreements previously entered into; and provided further, that this item may be reimbursed by political subdivisions of the commonwealth and private entities for direct and indirect costs expended by the division to maintain the telecommunications system . . . . .	\$50,000
2820-2000	For the expenses of snow and ice control on the parkways within the division of urban parks and recreation, including the costs of personnel; provided, that the department of conservation and recreation shall take all measures to ensure that said department's snow and ice control efforts are efficient and cost	

affective; provided further, that the secretary of environmental affairs shall submit to the house and senate committee on post audit and oversight and the house and senate committees on ways and means a report no later than September 1, 2004 which shall include, but not be limited to, the following: (a) a list of amounts paid from state appropriations for snow and ice control efforts for fiscal years 1998, 1999, 2000, 2001, 2002, 2003 and 2004 (b) any other information that said secretary determines is necessary to account for and explain the extraordinary expenditure of state appropriations for the control and removal of snow and ice; provided further, that no funds shall be expended from this appropriation until said secretary, and any other officer of the commonwealth involved in snow and ice control efforts has submitted all documentation, testimony, data and other information as required by the provisions of this appropriation; and provided further, that after said report has been submitted with the proper information and in the exact format requested by the legislature an additional amount of \$733,434 may be appropriated for snow and ice control efforts . . . . . \$733,434

2820-3001 The division of urban parks and recreation may expend an amount not to exceed \$1,000,000 from skating rink fees and rentals for the operation and maintenance, including personnel costs, of four rinks between September 1, 2004 and April 30, 2005 for an expanded and extended rink season; provided, that when assigning time for the use of its rinks said division shall give priority to those which qualify under applicable state and federal law as nonprofit organizations or as a public school . . . . . \$1,000,000

2820-4420 For the operation and maintenance of the Ponkapoag golf course; provided, that the division of urban parks and recreation may expend revenues up to \$1,100,000 collected from fees generated by the golf course; provided further, that for the purposes of accommodating discrepancies between the receipt of retained revenue and related expenditures, the division may incur expenses and the comptroller may certify for payment amounts not to exceed the lower of this authorization or the most recent revenue estimate as reported in the state accounting system; and provided further, notwithstanding section 1 of chapter 31 of the General Laws, seasonal positions funded

	by this account are positions requiring the services of an incumbent, on either a full-time or less than a full-time basis beginning no earlier than April 1 and ending no later than November 30 .....	\$1,100,000
2820-4421	For the operation and maintenance of the Leo J. Martin golf course; provided, that the division of urban parks and recreation may expend revenues up to \$700,000 collected from fees generated by the golf course; provided further, that for the purposes of accommodating discrepancies between the receipt of retained revenue and related expenditures, the division may incur expenses and the comptroller may certify for payment amounts not to exceed the lower of this authorization or the most recent revenue estimate as reported in the state accounting system; and provided further, notwithstanding section 1 of chapter 31 of the General Laws, seasonal positions funded by this account are positions requiring the services of an incumbent, on either a full-time or less than a full-time basis beginning not earlier than April 1 and ending not later than November 30 .....	\$700,000
2820-9005	For the operation of street lighting on the division of urban parks and recreation parkways; provided, that no expenditure shall be made other than in the GG subsidiary; provided further, that the department of conservation and recreation shall take all measures to further ensure that said department's street lighting efforts are efficient and cost affective; provided further, that said department shall implement a plan to achieve efficiencies and reduce said lighting costs; provided further, that said department shall file a report with the house and senate committees on ways and means no later than September 1, 2004 on measures taken to ensure efficiency and cost effectiveness of their street lighting program that shall include, but not be limited to, the following: (1) all efforts taken by said department to reduce street lighting costs in fiscal years 2002, 2003 and 2004, (2) efforts to reduce the amount paid for electricity through bulk purchasing agreements, (3) a long range plan on energy savings initiatives; provided further, that no funds shall be expended from this appropriation until said department has submitted all documentation, testimony, data and other information as required by the provisions of this appropriation; and provided further,	

that after said report has been submitted with the proper information and in the exact format requested by the legislature an additional amount of \$1,303,326 may be appropriated for street lighting efforts ..... \$1,303,326

**EXECUTIVE OFFICE OF HEALTH AND HUMAN SERVICES.**

*Office of the Secretary.*

4000-0112 For matching grants to boys' and girls' clubs, YMCA and YWCA organizations and nonprofit community centers; provided, that the secretary of health and human services shall award the full amount of each grant to each organization upon commitment of matching funds from the organization; provided further, that the secretary shall report to the house and senate committees on ways and means on the exact amounts distributed in fiscal year 2005 by March 1, 2005; provided further, that not less than \$920,000 shall be expended for the Massachusetts Alliance of Boys and Girls Clubs to provide grants to boys and girls of Massachusetts; provided further, that not less than \$500,000 shall be expended for the YMCA of greater Boston to facilitate capital projects approved by the board of directors of the YMCA; provided further, that not less than \$80,000 shall be expended for the young parents program of the Newton Community Service Centers; provided further, that not less than \$10,000 shall be expended for the Scantic Valley YMCA; provided further, that not less than \$40,000 shall be expended for the public partnership program between the greater Lynn YMCA and YWCA and the public partnership program between the town of Saugus and the Saugus YMCA and YWCA; provided further, that not less than \$40,000 shall be expended for the Saugus YMCA; provided further, that not less than \$20,000 shall be expended for the youth counseling, GED/School-to-Career program, drug prevention and at-risk youth services at a regional youth center in Uxbridge; provided further, that not less than \$100,000 shall be expended for the YMCA Spartacus program in Worcester; provided further, that not less than \$69,000 shall be expended to the Franklin Community Action Commission for youth services; and provided further, that not less than \$200,000 shall be expended to the YMCA of greater Lynn to facilitate capital projects approved by the board of directors of said YMCA ..... \$2,029,000

Chap. 149

- 4000-0115 For matching grants to the Massachusetts Technology Collaborative to implement inpatient hospital-based computerized physician order entry systems in eligible hospitals in Massachusetts for the purposes of improving patient safety and hospital efficiency; provided, that said secretary shall submit a report not later than October 30, 2004 to the house and senate committees on ways and means on the disbursement and uses of said grants; provided further, that no funds appropriated herein shall be granted unless the amount of said grant is matched dollar for dollar by the recipient; provided further, that not less than \$500,000, of which a minimum of 75 per cent must be eligible for federal financial participation, shall be available for said office to acquire through procurement professional and consulting services to enhance the fraud and abuse detection, program management, budgeting, and performance measurement capabilities of said executive office's existing or planned data warehouse to achieve cost-savings in the Medicaid program and identify program and policy efficiencies across all human service programs; provided further that such procurement must be completed no later than January 1, 2005; provided further that any vendor or vendors engaged contractually by said executive office must have prior Medicaid data warehouse experience in states whose Medicaid budgets are equal to or greater than Massachusetts to ensure a greater likelihood of success ..... \$1,000,000
- 4000-0300 For the operation of the executive office, including the operation of the managed care oversight board; provided, that the executive office shall provide technical and administrative assistance to agencies under the purview of the secretariat receiving federal funds; provided further, that the executive office and its agencies, when contracting for services on the islands of Martha's Vineyard and Nantucket, shall take into consideration the increased costs associated with the provision of goods, services, and housing on said islands; provided further, that the executive office shall monitor the expenditures and completion timetables for systems development projects and enhancements undertaken by all agencies under the purview of the secretariat, and shall ensure that all measures are taken to make such systems compatible with one

another for enhanced interagency interaction; provided further, that the executive office shall continue to develop and implement the common client identifier; provided further, that the executive office shall ensure that any collaborative assessments for children receiving services from multiple agencies within the secretariat shall be performed within existing resources; provided further, that funds appropriated herein shall be expended for the administrative, contracted services and non-personnel systems costs related to the implementation and operation of programs authorized by sections 9A to 9C, inclusive, and sections 16B and 16C of chapter 118E of the General Laws; provided further, that such costs shall include, but not be limited to, pre-admission screening, utilization review, medical consultants, disability determination reviews, health benefit managers, interagency service agreements, the management and operation of the central automated vendor payment system, including the recipient eligibility verification system, vendor contracts to upgrade and enhance the central automated vendor payment system, the medicaid management information system and the recipient eligibility verification system MA21, costs related to the information technology chargebacks, contractors responsible for system maintenance and development, personal computers and other information technology equipment; provided further, that 50 per cent of the cost of provider point of service eligibility verification devices purchased shall be assumed by the providers utilizing the devices; provided further, that the executive office of health and human services shall assume the full cost of provider point of service eligibility verification devices utilized by any and all participating dental care providers; provided further, that in consultation with the division of health care finance and policy, no rate increase shall be provided to existing medicaid provider rates without taking all measures possible under Title XIX of the Social Security Act to ensure that rates of payment to providers do not exceed such rates as are necessary to meet only those costs which must be incurred by efficiently and economically operated providers in order to provide services of adequate quality; provided further, that expenditures for the purposes of each item appropriated for the purpose of programs authorized by chapter 118E of the General Laws shall

be accounted for according to such purpose on the Massachusetts management accounting and reporting system not more than 10 days after such expenditures have been made by the medicaid management information system; provided further, that the no expenditures shall be made for the purpose of such programs that are not federally reimbursable, except as specifically authorized herein, or unless made for cost containment efforts the purposes and amounts of which have been submitted to the house and senate committees on ways and means 30 days prior to making such expenditures; provided further, that the executive office may continue to recover provider overpayments made in the current and prior fiscal years through the medicaid management information system, and that such recoveries shall be deemed current fiscal year expenditure refunds; provided further, that the executive office shall report quarterly to the house and senate committees on ways and means the amounts of said expenditure refunds credited to each item of appropriation; provided further, that the executive office shall report quarterly to the house and senate committees on ways and means the amount of hand generated payments, to providers by item of appropriation from which said payments were made; provided further, that the executive office may collect directly from a liable third party any amounts paid to contracted providers under chapter 118E of the General Laws for which the executive office later discovers another third party is liable if no other course of recoupment is possible; provided further, that no funds shall be expended for the purpose of funding interpretive services directly or indirectly related to a settlement or resolution agreement, with the office of civil rights or any other office, group or entity; provided further, that interpretive services currently provided shall not give rise to enforceable legal rights for any party or to an enforceable entitlement to interpretive services; provided further, that the federal financial participation received from claims filed for the costs of outreach and eligibility activities performed at certain hospitals or by community health centers which are funded in whole or in part by federally permissible in-kind services or provider donations from the hospitals or health centers, shall be credited to this item and may be expended without further

appropriation in an amount specified in the agreement with each donating provider hospital or health center; provided further, that the federal financial participation received from claims filed based on in-kind administrative services related to outreach and eligibility activities performed by certain community organizations, under the so-called "covering kids initiative" and in accordance with the federal revenue criteria in 45 CFR 74.23 or any other federal regulation which provides a basis for federal financial participation, shall be credited to this item and may be expended, without further appropriation, on administrative services including those covered under an agreement with the organizations participating in the initiative; provided further, that notwithstanding the provisions of any general or special law to the contrary, the executive office shall require the commissioner of mental health to approve any prior authorization or other restriction on medication used to treat mental illness in accordance with written policies, procedures and regulations of the department of mental health; provided further, that federal reimbursements received for administrative expenditures made pursuant to this item shall be credited proportionally to the General Fund and the Children's and Seniors' Health Care Assistance Fund, established under section 2FFof chapter 29 of the General Laws, in the same per centages as expenditures are made from this item; provided further, that in determining inpatient rates for any acute hospitals the executive office shall utilize the same payment methodology, including all exemptions, rate adjustments and passthrough payments, as was in effect on July 1, 2003; provided further that in determining outpatient rates for any acute hospitals the executive office shall utilize the same payment methodology, including all exemptions and rate adjustments, as was in effect on October 1, 2003; provided further, that any hospital with a unit designated as a pediatric specialty unit, as defined by this act, shall be exempt from the inpatient and outpatient efficiency standards, so called, being applied to their rate methodology; provided further, that said executive office shall use the same pricing methodology for durable medical equipment and oxygen as was in effect on July 1, 2003; provided further, that said executive office shall

not reduce the supplement to chronic disease and rehab hospitals administrative day rate below that which was granted during hospital fiscal year 2004; provided further, that said executive office in fiscal year 2005 shall not eliminate payment to hospital outpatient departments for primary care provided to MassHealth members; and provided further, that said executive office shall implement a pilot project for 25,000 disabled MassHealth members as authorized by this act that shall encourage the use of community health centers for primary care services and shall submit a report to the house and senate committees on ways and means no later than February 1, 2005 on the feasibility of expanding this pilot project to all MassHealth members ..... \$119,763,756

General Fund .....	85.84%
Children's and Seniors' Health Care Assistance Fund .....	14.16%

4000-0320 The executive office may expend an amount not to exceed \$333,500,000 from the monies received from recoveries of any current or prior year expenditures and collections from liens, estate recoveries, third party recoveries, drug rebates, accident and trauma recoveries, case mix recoveries, computer audits, insurance recoveries, provider overpayment recoveries, bankruptcy settlements, Masspro and Healthpro refunds, medicaid fraud returns, data match returns, Medicare appeals and program and utilization review audits; provided, that any revenues collected by the division that are not attributable to the aforementioned categories shall be deposited in the General Fund and shall be tracked separately; provided further, that additional categories of recoveries and collections may be credited to this item after providing written notice to the house and senate committees on ways and means; provided further, that no funds from this item shall be used for the purposes of item 4000-0300; provided further, that expenditures from this item shall be limited solely to payments for the provision of medical care and assistance rendered in the current fiscal year; provided further, that the executive office shall file quarterly with the house and senate committees on ways and means, a report delineating the amount of current year rebates from pharmaceutical companies or other current year collections which are being used to supplement current year expenditures; and provided

	further, that additional categories of recoveries and collections, including the balance of any personal needs accounts collected from nursing and other medical institutions and a recipient's death and held by the executive office for more than 3 years may, notwithstanding any general or special law to the contrary, be credited to this item after providing written notice to the house and senate committees on ways and means and the secretary of administration and finance . . .	\$333,500,000
4000-0430 For	the commonwealth program to provide primary and supplemental medical care and assistance to disabled adults and children under sections 9A, 16 and 16A of chapter 118E of the General Laws; provided, that funds may be expended from this item for health care services provided to the recipients in prior fiscal years; provided further, that the executive office shall maximize federal reimbursement for state expenditures made on behalf of such adults and children; provided further, that children shall be determined eligible for the medical care and assistance if they meet the disability standards as defined by the executive office, which standards shall be no more restrictive than the standards in effect on July 1, 1996; and provided further, that the executive office shall process commonwealth applications within 45 days of receipt of a completed application or within 90 days if a determination of disability is required, the same time period that governing applications under Title XIX of the Federal Social Security Act . . .	\$83,224,049
4000-0500 For	health care services provided to medical assistance recipients under the executive office's primary care clinician/mental health and substance abuse plan or through a health maintenance organization under contract with the division; provided, that funds may be expended from this item for health care services provided to the recipients in prior fiscal years; provided further, that no payment for special provider costs shall be made from this item without the prior written approval of the secretary of administration and finance; provided further, that expenditures from this item shall be made only for the purposes expressly stated herein; provided further, that said secretary shall take all steps necessary to maximize enrollment in managed care organizations in order to utilize federal dollars available under the federal upper pay-	

ment limit cap; provided further, that the secretary shall submit a report to the house and senate committees on ways and means which shall include MassHealth enrollment in managed care organization as of July 1, 2004 compared to said enrollment on December 1, 2004; provided further, that said report shall be submitted no later than December 15, 2004; provided further, that the commissioners of medical assistance and mental health shall report quarterly to the house and senate committees on ways and means relative to the performance of the managed care organization under contract with the division to administer the mental health and substance abuse benefit; provided further, that such quarterly reports shall include, but not be limited to, analyses of utilization trends, quality of care and costs across all service categories and modalities of care purchased from providers through the mental health and substance abuse program, including those services provided to clients of the department of mental health; provided further, that in conjunction with the new medicaid management information system project, said division study the feasibility of modifying its claim payment system, in collaboration with the MassHealth behavioral health contractor, to routinely process for payment valid claims for medically necessary covered medical services to eligible recipients with psychiatric and substance abuse diagnoses on a timely basis in an effort to avoid delay and expenses incurred by lengthy appeals processes; provided further, that said secretary shall report to the house and senate committee on ways and means not later than February 1, 2005 the results of said study, any proposed modifications to said payment system, and a timeline of steps to be taken to implement said modifications; provided further, that not less than \$10,000,000 shall be expended for disproportionate share payments for inpatient services provided at pediatric specialty hospitals and units, including pediatric chronic and rehabilitation long-term care hospitals as allowable under federal law; provided further, that \$1,100,000 shall be available for medical interpreter services to MassHealth members in emergency rooms and acute psychiatric units within acute care or psychiatric hospitals; and provided further, that not less than 20 per cent of the amount shall be expended for grants awarded through a competitive bidding

	process intended for innovative methods to improve interpreter services and contain costs; and provided further, that \$11,700,000 shall be expended on disproportionate share payments to high public payer hospitals . . . . .	\$2,319,197,919
4000-0550	For the purposes of funding in fiscal year 2005 a one-time program of one-time incentive payments to community health centers which enroll MassHealth eligible patients in MassHealth managed care organizations dedicated to providing primary care in low cost settings; provided further, that said program shall provide a one-time rate add-on to participating community health centers which shall be passed through and paid to patients who enroll in MassHealth and simultaneously choose their primary care physician at a community health center; provided further, that said add-on shall not result in a payment to any enrollee which would exceed \$5 per enrollee; provided further, that enrollees shall be eligible for only one \$5 incentive payment and that said payments shall not apply to persons currently enrolled at a community health center; provided further, that no funds shall be expended in excess of the amount appropriated herein; provided further, that nothing stated herein shall give rise to or shall be construed as giving rise to enforceable legal rights in any party or enforceable entitlement to the services funded herein; and provided further, that said division shall work in consultation with the division of health care finance and policy on the implementation of the provisions herein . . . . .	\$500,000

*Department of Elder Affairs.*

4000-0600 For health care services provided to medical assistance recipients under the department's senior care plan; provided, that funds may be expended from this item for health care services provided to these recipients in prior fiscal years; provided further, that no payment for special provider costs shall be made from this item without the prior written approval of the secretary of administration and finance; provided further, that not less than \$9,240,000 shall be expended for the purposes of a demonstration project known as the "community choices" initiative, so-called; provided further, that under the demonstration, eligible MassHealth enrollees in the section 2176 elder care waiver, so-called, shall be covered for any needed

community services, including case management, from among those services available under the waiver or under the Commonwealth's Title XIX state plan, for the purpose of delaying or preventing an imminent nursing home admission; provided further, that elders enrolled in the waiver at risk of imminent nursing home admission shall be provided information about the availability of such services; provided further, that for elders who, pursuant to the aforementioned interagency agreement, have been determined to be at such imminent risk, have chosen to remain in the community, and for whom community care is medically appropriate, the department shall establish a funding level that, on a monthly average basis, is equal to fifty per cent of the median monthly per capita expenditure made by the department for nursing facility services provided to elders; provided further, that such funding level may include the costs of needed waiver services or other needed community services available to the elders under the state plan, provided further, that the interagency agreement shall be amended to implement the demonstration project and shall describe how the funding level will be made available to meet the costs of needed waiver services or other needed community services available to the elders under the state plan; provided further, that the department shall enter into an agreement with each aging service access point participating in the demonstration, which shall describe a system to be followed by each aging service access point, in accordance with state law and requirements under Title XIX of the Social Security Act, for coordination of both waiver and non-waiver community services needed by such eligible elders; provided further, that each aging services access point receiving funds under the demonstration project shall submit monthly reports to the executive office of health and human services and to the department of elder affairs on the care provided and the service expenditures made under the 2176 elder care waiver and such other information as specified by the department and the executive office; provided further, that executive office of health and human services shall prepare a report on all relevant costs and savings associated with the demonstration project; provided further, that the report shall be submitted to the house and senate committees on ways and means by April 1, 2005; provided further, that the department

shall expend funds for the purpose of funding base hourly wage increases and related payroll taxes for certified nurses' aides at nursing facilities, in accordance with 114.2 CMR 6.00 et seq; provided further, that effective January 1, 2002, such wage increases shall be over and above any previously collectively bargained for wage increases; provided further, that the division shall report to the house and senate committees on ways and means on the increases given at each facility by February, 1, 2005; provided further, that the department shall in correlation with the senior care options program explore options for enrolling the senior care population into managed care programs through federal waivers or other necessary means; provided further, that not less than \$75,000 shall be made available to reimburse providers of dementia-specific adult day care at the rate paid on January 1, 2003; provided further, that notwithstanding any general or special law to the contrary, for any nursing home that provides kosher food to its residents, the division of medical assistance, in consultation with the division of health care finance and policy, is directed to approve a special innovative program, and the division of health care finance and policy, in recognition of the unique special innovative program status granted by the division of medical assistance, shall for any nursing home that provides kosher food to its residents, establish up to a \$5 per day increase to the standard payment rates to reflect the high dietary costs incurred in providing kosher food; provided further, that notwithstanding any general or special law to the contrary, all licensed chronic care hospitals located in Hampden county shall be paid under the same Medicaid reimbursement methodology as applied to all other similarly situated chronic care hospitals; provided further, that in calculating the Medicaid reimbursement, such reimbursement shall exclude any costs associated with any beds licensed by the department of mental health; provided further, that effective July 1, 2004 through June 30, 2005, the division of health care finance and policy in collaboration with the executive office of elder affairs shall establish nursing facility payment rates and fully fund allowable costs using calendar year 2002 base year costs; provided further, that the secretary of elder affairs may transfer not more than

- 3 per cent of funds appropriated in this item to item 4000-0620; and provided further, that the department shall provide written notice to the house and senate committees on ways and means not less than 30 days prior to any transfer . . . . \$1,697,117,500
- 4000-0620 For the senior care options program; provided that the secretary of elder affairs may transfer not more than 15 per cent of funds appropriated in this item to item 4000-0600; provided, that the department shall provide written notice to the house and senate committees on ways and means not less than 30 days prior to any transfer . . . . . \$83,275,500
- 4000-0625 For the recruitment and retention of home health workers including the cost of workforce training, direct wages and benefits of said workers; provided, that the funds authorized herein shall be in addition to any amounts appropriated in line item 4000-0600 for the purpose of providing Title XIX services to patients; provided further, that said department shall work in consultation with the division of health care finance and policy on the implementation of the provisions herein; and provided further, that the funds authorized herein shall be eligible for federal financial participation . . . . . \$4,000,000

*Office of the Secretary*

- 4000-0700 For health care services provided to medical assistance recipients under the executive office's health care indemnity/third party liability plan and medical assistance recipients not otherwise covered under the executive office's managed care or senior care plans; provided, that funds may be expended from this item for health care services provided to the recipients in prior fiscal years; provided further, that no payment for special provider costs shall be made from this item without the prior written approval of the secretary of administration and finance; and provided further, that expenditures from this item shall be made only for the purposes expressly stated in this item . . . . . \$1,239,530,000
- 4000-0860 For MassHealth benefits provided to children and adults under clauses (a), (b), (c), (d) and (h) of subsection (2) of section 9A of chapter 118E of the General Laws; provided, that no funds shall be expended from this item for children and adolescents under the clause (c) of said subsection (2) of said section 9A of said chapter 118E whose family incomes, as determined by

the executive office, exceeds 150 per cent of the federal poverty level; provided further, that funds may be expended from this item for health care services provided to the recipients in prior fiscal years; and provided further, that all federal reimbursements received for expenditures from this item under Title XIX and Title XXI of the Federal Social Security Act shall be credited to the Children's and Seniors' Health Care Assistance Fund ..... \$390,030,100

Children's and Seniors' Health Care Assistance Fund ..... 100.0%

4000-0870 For health care services provided to adults participating in the medical assistance program pursuant to clause (g) of subsection (2) of section 9A of chapter 118E of the General Laws; provided, that funds may be expended from this item for health care services provided to such recipients in prior fiscal years ..... \$121,642,118

4000-0875 For the provision of benefits to eligible women who require medical treatment for either breast or cervical cancer in accordance with 1902(a)(10)(A)(ii)(XVIII) of the Breast and Cervical Cancer Prevention and Treatment Act of 2000, Public Law 106-354, and in accordance with section 10D of chapter 118E of the General Laws; provided, that the executive office shall seek to obtain federal approval to limit the provision of said benefits to women whose income, as determined by the executive office, does not exceed 250 per cent of the federal poverty level; provided further, that eligibility for such benefits shall be extended solely for the duration of such cancerous condition; provided further, that prior to the provision of any benefits covered by this item, said division shall require screening for either breast or cervical cancer at the comprehensive breast and cervical cancer early detection program operated by the department of public health, in accordance with item 4570-1503 of section 2D; provided further, that the executive office shall seek to obtain federal approval for the implementation of a cost sharing system, including co-pays and sliding scale premiums for women whose annual income is between 133 per cent and 250 per cent of the federal poverty level; provided further, that funds shall only be expended and such program implemented, subject to federal approval and the availability of federal financial participation; and provided further, that all

	federal reimbursements received for expenditures from this item pursuant to the provisions of Title XIX of the federal Social Security Act shall be credited to the General Fund . . . .	\$2,848,206
4000-0880	For MassHealth benefits under clause (c) of subsection (2) of section 9A and section 16C of chapter 118E of the General Laws for children and adolescents whose family incomes as determined by the executive office are above 150 per cent of the federal poverty level; provided, that funds may be expended from this item for health care services provided to the children and adolescents in prior fiscal years; and provided further, that all federal reimbursements received for expenditures from this item under Title XXI of the Federal Social Security Act shall be credited to the Children's and Seniors' Health Care Assistance Fund . . . . .	\$63,103,326
	Children's and Seniors' Health Care Assistance Fund . . . . .	100.0%
4000-0890	For the cost of health insurance premium subsidies paid to employees of small businesses participating in the insurance reimbursement program pursuant to the provisions of section 9C of chapter 118E of the General Laws; provided, that all federal reimbursements received for expenditures from this item pursuant to the provisions of Title XIX and Title XXI of the federal Social Security Act shall be credited to the Children's and Seniors' Health Care Assistance Fund; and provided further, that expenditures made for the purposes of this item shall not exceed the amount appropriated herein . . .	\$30,846,992
	Children's and Seniors' Health Care Assistance Fund . . . . .	100.0%
4000-0891	For the cost of health insurance subsidies paid to employers participating in the insurance reimbursement program under section 9C of chapter 118E of the General Laws; provided, that the executive office shall directly market the program to private human service providers that deliver human and social services under contract with departments within the executive office of health and human services and the executive office of elder affairs for the purpose of mitigating health insurance costs to the employers and their employees; provided further, that the executive office shall report quarterly to the house and senate committees on ways and means and the executive office of administration and finance monthly expenditure data for the program, including the total number of employers par-	

icipating in the program, the per centage of the employers who purchased health insurance for employees prior to participating in the program and total monthly expenditures delineated by payments to small employers and self-employed persons for individual, 2-person family and family subsidies; provided further, that the executive office shall seek federal reimbursement for the payments to employers; and provided further, that all federal reimbursements received for expenditures from this item, under Title XIX and Title XXI of the federal Social Security Act, shall be credited to the Children's and Seniors' Health Care Assistance Fund . . . . . \$6,473,121

Children's and Seniors' Health Care Assistance Fund . . . . . 100.0%

4000-0895 For the healthy start program to provide medical care and assistance to pregnant women and infants residing in the commonwealth pursuant to section 24D of chapter 111 of the General Laws; provided, that pursuant to an interagency agreement established with the executive office, the department of public health shall determine the presumptive eligibility of low-income pregnant women for services available under Title XIX and chapter 118E of the General Laws; provided further, that the department shall report to the house and senate committees on ways and means on the population served by the program delineated by federal poverty level, the cost of each segment of the population delineated by federal poverty level, as well as any long term cost savings achieved by providing the services to the populations; and provided further, that the department shall include in said report a breakdown of the costs incurred by said program from the time when eligibility was expanded to 225 per cent of the federal poverty level . . . . . \$14,213,532

4000-0990 For the children's medical security plan to provide primary and preventive health services for uninsured children from birth through age 18; provided, that the executive office shall pre-screen enrollees and applicants for Medicaid eligibility; provided further, that no applicant shall be enrolled in said program until said applicant has been denied eligibility for the MassHealth program; provided further, that the MassHealth benefit request shall be used as a joint application to determine the eligibility for both MassHealth and the children's medical security plan; provided further, that the executive of-

fice shall maximize federal reimbursements for state expenditures made on behalf of said children; provided further, that any projection of deficiency in this item shall be reported to the house and senate committees on ways and means not less than 90 days prior to the projected exhaustion of funding; provided further, that the executive office shall expend all necessary funds from this item to ensure the provision of the maximum benefit levels for this program, as authorized by section 10E of chapter 118E of the General Laws; provided further, that said maximum benefit levels for this program shall be made available only to those children who have been determined by the division to be ineligible for MassHealth benefits; provided further, that the secretary of the executive office shall certify quarterly in writing to the house and senate committees on ways and means that premiums established pursuant to the fourth paragraph of said section 10E of said chapter 118E have been paid by all enrollees for whom said premiums are applicable . . . . . \$21,374,000

General Fund . . . . . 76.62%  
Children's and Seniors' Health Care  
Assistance Fund . . . . . 23.38%

4000-1400 For the purposes of providing MassHealth benefits to persons with a diagnosis of human immunodeficiency virus with incomes up to 200 per cent of the federal poverty level; provided, that funds may be expended from this item for health care services provided to these persons in prior fiscal years . . . . . \$8,732,000

*Division of Health Care Finance and Policy.*

4100-0060 For the operation of the division and the administration of the uncompensated care pool established pursuant to chapter 118G of the General Laws; provided, that notwithstanding any general or special law to the contrary, the assessment to acute hospitals authorized pursuant to section 5 of said chapter 118G for the estimated expenses of the division shall include in fiscal year 2005, the estimated expenses, including indirect costs, of the division and shall be equal to the amount appropriated in this item less amounts projected to be collected in fiscal year 2005 from: (1) filing fees; (2) fees and charges generated by the division's publication or dissemina-

tion of reports and information; and (3) federal financial participation received as reimbursement for the division's administrative costs; provided further, that the assessed amount shall be not less than 65 per cent of the division's expenses as specified in this item; provided further, that the division shall promulgate regulations requiring all hospitals receiving payments from the uncompensated care pool to report to the division the following utilization information: the number of inpatient admissions and outpatient visits by age category, income category, diagnostic category and average charge per admission; provided further, that the division shall submit quarterly to the house and senate committees on ways and means a summary report compiling said data; provided further, that the division, in consultation with the executive office of health and human services, shall not promulgate any increase in medicaid provider rates without taking all measures possible under Title XIX of the Social Security Act or any successor federal statute to ensure that rates of payment to providers do not exceed such rates as are necessary to meet only those costs incurred by efficiently and economically operated providers in order to provide services of adequate quality; provided further, that the division shall meet the reporting requirements of section 25 of chapter 203 of the acts of 1996; provided further, that the division shall share financial data and expertise about the Massachusetts health care industry with the Massachusetts Institute for Social and Economic Research for the purpose of enhancing, developing and marketing data products for the public; provided further, that the division and the institute shall share any revenue generated through sale, licensure, royalty and usage fees charged for said data products; provided further, that not later than October 24, 2004 the division shall submit to the comptroller and to the house and senate committees on ways and means a report describing the method by which the division shall generate revenues through said sale, licensure, royalty, and usage fees in an amount sufficient to meet 25 per cent of the projected costs of the division in any fiscal year, as required by section 612 of chapter 151 of the acts of 1996; provided further, that funds may be expended for the purposes of a survey and study of the uninsured and underinsured in the commonwealth, including

the health insurance needs of the residents of the commonwealth; provided further, that said study shall examine the overall impact of programs administered by the executive office of health and human services on the uninsured, the underinsured, and the role of employers in assisting their employees in affording health insurance pursuant to section 23 of chapter 118G of the General Laws; provided further, that for hospital fiscal year 2005, the private sector liability of purchasers and third party payers to the Uncompensated Care Trust Fund established pursuant to section 18 of chapter 118G of the General Laws shall be \$320,000,000; provided further, that the division shall publish annual reports on the financial condition of hospitals and other health care providers through the Health Benchmarks project website, in collaboration with the executive office of health and human services, the office of the attorney general, and the University of Massachusetts; provided further, that the division shall submit to the house and senate committees on ways and means not later than December 6, 2004 a report detailing utilization of the uncompensated care pool; provided further, that the report shall include: (1) the number of persons in the commonwealth whose medical expenses were billed to the pool in fiscal year 2004; (2) the total dollar amount billed to the pool in fiscal year 2004; (3) the demographics of the population using the pool, and; (4) the types of services paid for out of the pool funds in fiscal year 2004; provided further, that the division shall include in the report an analysis on hospitals' responsiveness to enrolling eligible individuals into the MassHealth program upon the date of service rather than charging said individuals to the uncompensated care pool; provided further, that the division shall include in the report possible disincentives the state could provide to hospitals to discourage such behavior; provided further, that notwithstanding any general or special law or rule or regulation to the contrary, the division shall not allow any exceptions to the usual and customary charge defining rule as defined in 114.3 CMR 31.02, for the purposes of drug cost reimbursement to eligible pharmacy providers for publicly aided and industrial accident patients; provided further, that the division is hereby authorized to change the pricing standard used by said division when determining the

rate of payment to pharmacy providers for prescribed drugs for publicly-aided or industrial accident patients if such a change would financially benefit the commonwealth; provided further, that notwithstanding any general or special law to the contrary said division shall maintain the rate paid for the dispensing fees to retail pharmacies for prescribed drugs to publicly aided or industrial accident patients at \$3 in fiscal year 2005; and provided further, that said division shall not use any funds appropriated from the health care quality improvement trust fund for operating costs, including rent and utilities ..... \$10,028,104

**OFFICE OF DISABILITIES AND COMMUNITY SERVICES.**  
*Massachusetts Commission for the Blind.*

4110-0001 For the office of the commissioner and the bureau of research; provided, that the commissioner may transfer funds between items 4110-0001, 4110-1000, 4110-1010, 4110-1020, 4110-2000, 4110-2001, 4110-3010 and 4110-4000; provided further, that the amount transferred from any of the items stated herein shall not exceed 10 per cent of the total amount appropriated for that item; provided further, that 30 days prior to any such transfer, the commissioner shall submit an allocation plan detailing the distribution of the funds to be transferred to the house and senate committees on ways and means; and provided further, that amounts appropriated to the commission in fiscal year 2005 that extend or expand services beyond the level of services provided in fiscal year 2004 shall not annualize above the amounts in fiscal year 2006 ..... \$939,292

4110-1000 For the community services program; provided, that not less than \$350,000 shall be expended from this item for the deaf-blind community access network; provided further, that not less than \$500,000 shall be expended for the talking information center; provided further, that not less than \$10,000 shall be expended for the Audible Local Ledger of Falmouth; and provided further, that the Massachusetts commission for the blind shall work in collaboration with the Massachusetts commission for the deaf and hard of hearing to provide assistance and services to the deaf-blind community through the deaf-blind community access network ..... \$3,733,070

Chap. 149

4110-1010	For aid to the adult blind; provided, that funds may be expended from this item for burial expenses incurred in the prior fiscal year .....	\$8,351,643
4110-1020	For eligibility determination for the medical assistance program for the blind; provided, that the commission shall work with the division of medical assistance, the department of mental retardation and other state agencies to maximize federal reimbursement for clients so determined through this item including, but not limited to, reimbursement for home and community-based waiver clients .....	\$321,461
4110-2000	For the turning 22 program of the commission; provided, that nothing stated herein shall give rise to or shall be construed as giving rise to enforceable legal rights in any party or an enforceable entitlement to the services funded herein; provided further, that the commission shall work in conjunction with the department of mental retardation to secure the maximum amount of federal reimbursements available for the care of turning 22 clients; and provided further, that the commission shall work in conjunction with the department of mental retardation to secure similar rates for contracted residential services .....	\$8,074,775
4110-2001	For services to clients of the department who turn 22 years of age during state fiscal year 2005; provided, that the amount spent from this item shall not annualize to more than \$522,000 in fiscal year 2006; provided further, that nothing stated herein shall give rise to or shall be construed as giving rise to enforceable legal rights in any party or an enforceable entitlement to the services funded herein; provided further, that the commission shall work in conjunction with the department of mental retardation to secure the maximum amount of federal reimbursements available for the care of turning 22 clients; and provided further, that the commission shall work in conjunction with the department of mental retardation to secure similar rates for contracted residential services .....	\$297,000
4110-3010	For a program of vocational rehabilitation for the blind in cooperation with the federal government; provided, that no funds from the federal vocational rehabilitation grants or state appropriation shall be deducted for pensions, group health and life insurance, or any other such indirect cost of federally reimbursed state employees .....	\$2,588,521

**Chap. 149**

4110-4000 For the administration of the Ferguson Industries for the Blind; provided, that retired workshop employees shall receive grants equal to  $\frac{3}{4}$  of the salaries of current workshop employees; and provided further, that any funds received for goods and services purchased by private and public sector entities at Ferguson Industries shall be remitted to the General Fund ..... \$1,885,073

**OFFICE OF DISABILITIES AND COMMUNITY SERVICES.**

*Massachusetts Rehabilitation Commission.*

4120-1000 For the operation of the commission; provided, that the commissioner may transfer funds between items 4120-1000, 4120-2000, 4120-3000, 4120-4000, 4120-4001, 4120-4010, 4120-5000, and 4120-6000; provided further, that the amount transferred from any of the items stated herein shall not exceed 10 per cent of the total amount appropriated for that item; provided further, that 30 days prior to any such transfer, the commissioner shall submit an allocation plan to the house and senate committees on ways and means detailing the distribution of the funds to be transferred; provided further, that the commissioner shall report quarterly to the house and senate committees on ways and means and the secretary of administration and finance on the number of clients served and the amount expended on each type of service; provided further, that upon the written request of the commissioner of revenue, the commission shall provide lists of individual clients to whom or on behalf of whom payments have been made for the purpose of verifying eligibility and detecting and preventing fraud, error and abuse in the programs administered by the commission; provided further, that the lists shall include client names and social security numbers and payee names and other identification, if different from a client's; and provided further, that amounts appropriated in items of the department that extend or expand services beyond the level of services provided in fiscal year 2004 shall not annualize above the amounts in fiscal year 2006 ..... \$409,264

4120-2000 For vocational rehabilitation services operated in cooperation with the federal government; provided, that no funds from the federal vocational rehabilitation grant or state appropriation

	shall be deducted for pensions, group health and life insurance and any other such indirect cost of the federally reimbursed state employees; provided further, that the commissioner, in making referrals to service providers, shall take into account the client's place of residence and the geographic proximity of the nearest provider to said residence; provided further, that not less than \$100,000 shall be expended on special vocational projects in the Charlestown neighborhood of Boston for people with disabilities; and provided further, that not less than \$155,000 shall be expended for services provided by the Life Focus Center in the Charlestown neighborhood of Boston . . . . .	\$7,459,207
4120-3000	For employment assistance services; provided, that vocational evaluation and employment services for severely disabled adults may, subject to appropriation, be provided; provided further, that not less than \$100,000 shall be expended on special projects in Charlestown for people with disabilities; and provided further, that not less than \$305,000 shall be expended for the Charlestown Navy Yard Special Project for disabled adults . . . . .	\$7,886,816
4120-4000	For independent living assistance service; provided, that not more than \$858,000 shall be expended for assistive technology devices and training for individuals with severe disabilities; provided further, that not less than \$25,000 will be used to assist the Living Independently for Equality, Inc. of Brockton; and provided further, that not less than \$200,000 may be expended for the Center for Rehabilitation Engineering at the University of Massachusetts/Dartmouth . . .	\$7,520,512
4120-4001	For the housing registry for the disabled . . . . .	\$83,754
4120-4010	For services to clients of the department who turn 22 years of age; provided, that the amount appropriated herein shall not annualize to more than \$1,394,220 in state fiscal year 2006; and provided further, that nothing stated herein shall be construed as giving rise to enforceable legal rights in any party or an enforceable entitlement to the services funded herein . . . . .	\$1,065,000
4120-5000	For homemaking services . . . . .	\$4,339,768
4120-5050	Notwithstanding any general or special law to the contrary, the Massachusetts rehabilitation commission may expend an amount not to exceed \$2,000,000 for expanded independent living and employment services from federal reimbursements	

received for services provided by the commission; provided, that for the purpose of accommodating discrepancies between the receipt of retained revenue and related expenditures, the department may incur expenses and the comptroller may certify for payments amounts not to exceed the lower of this authorization or the most recent revenue estimate reported in the state accounting system; and provided further, that the commission shall submit a report to the house and senate committees on ways and means not later than February 3, 2005, detailing the use of any funds encumbered or expended from this item, including, but not limited to, the number of clients served, the types of services purchased and the annualized impact of the expenditures in the subsequent fiscal year . . . . . \$2,000,000

4120-6000 For head injured services; provided, that the commission shall work with the division of medical assistance to maximize federal reimbursement for clients receiving head injured services; provided further, that the commission shall expend funds on a 24-hour basis for persons with severe head injuries in western Massachusetts; and provided further, that not less than \$50,000 shall be expended for the Cape Cod head injury program . . . . . \$6,000,568

*Massachusetts Commission for the Deaf and Hard of Hearing.*

4125-0100 For the operation of and services provided by the Massachusetts commission for the deaf and hard of hearing . . . . . \$5,264,267

4125-0101 Notwithstanding any general or special law to the contrary, the Massachusetts commission for the deaf and hard of hearing may expend revenues in an amount not to exceed \$175,000 from charges received on behalf of interpreter services and monies received from private grants, bequests, gifts or contributions; provided, that for the purpose of accommodating discrepancies between the receipt of retained revenues and related expenditures, the commission may incur expenses and the comptroller may certify for payment amounts not to exceed the lower of this authorization or the most recent revenue estimate as reported in the state accounting system . . . . \$175,000

**OFFICE OF CHILDREN, YOUTH AND FAMILY SERVICES.**  
*Office of Child Care Services.*

4130-0001	For the administration of the office of child care services; provided, that the office shall issue monthly reports detailing the number and average cost of voucher and contracted child care slots funded from items 4130-3050 and 4130-3600 by category of eligibility; provided further, that the report shall include the number of recipients subject to subsection (f) of section 110 of chapter 5 of the acts of 1995 funded under item 4130-3050; provided further, that the office shall report quarterly to the house and senate committees on ways and means and the secretary of administration and finance on the unduplicated number of children on waiting lists for state-subsidized child care; provided further, that the office shall administer the child care resource and referral system; provided further, that nothing contained herein shall be construed as limiting the office's authority to issue variances or grant licenses or certificates on a probationary basis as provided in 102 CMR 8.00 as in effect on May 28, 1993; provided further, that notwithstanding any general or special law to the contrary, the office shall perform post-audit reviews on a representative sample of the income eligibility determinations performed by vendors receiving funds from item 4130-3050; provided further, that the office shall report quarterly to the house and senate committees on ways and means and secretary of administration and finance on the error rate, if any, in income-eligibility determinations calculated by the post audit reviews; and provided further, that no funds from this item shall be expended for the DD subsidiary costs of the Children's Trust Fund .....	\$1,395,164
4130-0002	For the administration of the Children's Trust Fund .....	\$870,198
4130-0005	For field operations and licensing .....	\$7,106,933
4130-1000	For statewide neonatal and postnatal home parenting education and home visiting programs for at-risk newborns to be administered by the Children's Trust Fund; provided, that such services shall be made available statewide to parents under the age of 21 years; and provided further, that notwithstanding any general or special law to the contrary, priority for such services shall be given to low-income parents .....	\$12,238,533

- 4130-2998 For child care quality expenditures; provided, that not less than \$1,321,145 shall be expended for activities to increase the supply of quality child care for infants and toddlers; provided further, that not less than \$234,248 shall be expended for resource and referral and school-age child care activities; provided further, that no funds from this item shall be used to fund capital assets or equipment for for-profit providers or agencies; and provided further, that no funds may be expended, obligated or transferred from this item prior to the submission of written certification by the commissioner to the house and senate committees on ways and means that all planned expenditures and allocations from this item shall have no fiscal impact beyond fiscal year 2005 . . . . . \$4,158,403
- 4130-3050 For child care vouchers and contracted child care programs for low-income families; provided, that the employment services child care program for recipients of transitional aid to families with dependent children and the absent parents of the recipients, former recipients of the program who are working for up to 1 year after termination of benefits, former recipients of the program participating in education or training programs authorized by department of transitional assistance regulations, and parents under the age of 18 currently enrolled in a job training program who would qualify for benefits under the provisions of chapter 118 of the General Laws but for the deeming of grandparents' income, shall be funded from this item; provided further, that post-transitional child care vouchers for former recipients of transitional aid to families with dependent children who have been working for more than 1 year after termination of program benefits shall be funded from this item; provided further, that not less than 500 child care slots shall be reserved for children in the foster care program at the department of social services; provided further, that income-eligible child care programs shall be funded from this item; provided further, that not less than the same amount shall be spent on income eligible child care programs in fiscal year 2005 as was spent on these programs in fiscal year 2004; provided further, that child care for the children of teen parents receiving transitional aid to families with dependent children benefits, teen parents receiving supplemental security income payments and whose dependent children receive the aid, and teen parents at risk of becoming

eligible for transitional aid to families with dependent children benefits shall be paid from this item; provided further, that all teens eligible for year-round full-time child care services shall be participating in school, education, work and training-related activities or a combination thereof for at least the minimum number of hours required by regulations promulgated for the program of transitional aid, whether or not such teens are recipients of benefits from the program; provided further, that informal child care benefits shall be funded from this item; provided further, that not more than \$2 per child per hour shall be paid for such services; provided further, that child care slots funded from this item shall be distributed geographically in a manner that provides fair and adequate access to child care for all eligible individuals; and provided further, that all child care providers that are part of a public school system shall be required to accept child care vouchers from recipients funded through this appropriation . \$278,936,661

4130-3100 For the regional administration of child care programs and related child care activities; provided, that the activities shall include, but not be limited to, voucher management, child care provider training, resource and referral for children with disabilities in child care programs, community-based programs that provide direct services to parents and coordination of waiting lists for state-subsidized child care; and provided further, that no funds shall be expended from this item for AA subsidiary payroll expenses ..... \$10,043,732

4130-3600 For supportive child care associated with the family stabilization program; provided, that funds from this item shall only be expended for child care costs of children with active cases at the department of social services ..... \$48,344,206

**OFFICE OF DISABILITIES AND COMMUNITY SERVICES.**  
*Soldiers' Home in Massachusetts.*

4180-0100 For the maintenance and operation of the Soldiers' Home in Massachusetts located in the city of Chelsea, including a specialized unit for the treatment of Alzheimer's disease patients; provided, that graduates from the LPN school of nursing shall work in state -operated facilities for at least 1 year; provided further, that no fee, assessment or other charge

shall be imposed upon or required of any person for any outpatient treatment, admission or hospitalization which exceeds the amount of fees charged in fiscal year 2004; and provided further, that no new fee, assessment or other charge shall be implemented in fiscal year 2005 . . . . . \$22,892,767

4180-1100 The Soldiers' Home in Massachusetts located in the city of Chelsea may expend revenues up to \$207,000 for facility maintenance and patient care, including personnel costs; provided, that 60 per cent of all revenues generated pursuant to section 2 of chapter 90 of the General Laws, through the purchase of license plates with the designation VETERAN by eligible veterans of the commonwealth, upon compensating the registry of motor vehicles for the cost associated with the license plates, shall be deposited into and for the purposes of this retained revenue account of the Soldiers' Home; and provided further, that notwithstanding any general or special law to the contrary, for the purpose of accommodating timing discrepancies between the receipt of retained revenues and related expenditures, the Soldiers' Home may incur expenses and the comptroller may certify for payment amounts not to exceed the lower of this authorization or the most recent revenue estimate as reported in the state accounting system, prior appropriation continued . . . . . \$207,000

*Soldiers' Home in Holyoke.*

4190-0100 For the maintenance and operation of the Soldiers' Home in Holyoke, including the adult day care program, the Maguder House and the Chapin Mansion; provided, that no fee, assessment or other charge shall be imposed upon or required of any person for any outpatient treatment, admission or hospitalization which exceeds the amount of fees charged in fiscal year 2004; provided further, that no new fee, assessment or other charge shall be implemented in fiscal year 2005; and provided further, that in the operation of the outpatient pharmacy, the Soldiers' Home shall cover the cost of drugs prescribed at the Soldiers' Home, excluding the required co-payment, only when the veteran has no access to other drug insurance coverage, including coverage through the program authorized by section 39 of chapter 19A of the General Laws . . . . . \$16,658,929

---

## Chap. 149

- 4190-0102 The Soldiers' Home in Holyoke may expend for the outpatient pharmacy program an amount not to exceed \$225,000 from co-payments which it may charge to users of the program; provided further, that no co-payments shall be imposed or required of any person which exceed the level of co-payments charged in fiscal year 2004; provided further, that no funds appropriated in this item shall be expended until the superintendent has submitted a report to the secretary and the house and senate committees on ways and means detailing projected expenditures for fiscal years 2005 and 2006 and any and all assumptions used to project outpatient pharmacy spending for the outpatient pharmacy program from this item and item 4190-0100 by September 1, 2004; provided further, that said superintendent shall submit a report to said secretary and the house and senate committees on ways and means that shall include demographic information on said outpatient pharmacy users, including age and insurance status; provided further, that said report shall include utilization information for the outpatient pharmacy including the number of generic prescriptions filled, the number of brand name prescriptions filled, the number of 30-day supplies of generic drugs dispensed, the number of 30-day supplies of brand name drugs dispensed, and a description of said Soldiers' Home's drug utilization review program for the first two quarters of fiscal year 2005; provided further, that said report shall be submitted not later than January 15, 2005; and provided further, that notwithstanding any general or special law to the contrary, for the purpose of accommodating timing discrepancies between the receipt of retained revenues and related expenditures, the Soldiers' home may incur expenses and the comptroller may certify for payment amounts not to exceed the lower of this authorization or the most recent revenue estimate as reported in the state accounting system . . . . \$225,000
- 4190-1100 The Soldiers' Home in Holyoke may expend revenues up to a maximum of \$163,000 for facility maintenance and patient care, including personnel costs; provided, that 40 per cent of all revenues generated pursuant to section 2 of chapter 90 of the General Laws, through the purchase of license plates with the designation VETERAN by eligible veterans of the commonwealth, upon compensating the registry of motor vehicles for the cost associated with the license plates, shall

	be deposited into and for the purposes of this retained revenue account of said Soldiers' Home; and provided further, that notwithstanding any general or special law to the contrary, for the purpose of accommodating timing discrepancies between the receipt of retained revenues and related expenditures, said Soldiers' Home may incur expenses and the comptroller may certify for payment amounts not to exceed the lower of this authorization or the most recent revenue estimate as reported in the state accounting system, prior appropriation continued .....	\$163,000
4190-1101	The Soldiers' Home in Holyoke may expend revenues up to a maximum of \$579,000 from resident fees for long-term care beds and domiciliary beds; provided, that the only revenue available for expenditure in this item shall be amounts collected for fiscal year 2005 from the resident fees; provided further, that funds shall only be expended on items directly related to patient care; provided further, that funds shall not be expended on office furniture or any other ancillary administrative expenses; and provided further, that the Soldiers' Home shall submit a quarterly report to the house and senate committees on ways and means on any expenditures made from this account .....	\$579,000

*Department of Youth Services.*

4200-0010	For the administration of the department of youth services; provided, that the department shall submit a report to the house and senate committees on ways and means not later than February 1, 2005, detailing the caseload for all department programs funded in items 4200-0100, 4200-0200 and 4200-0300; provided further, that the department of education shall collaborate with the department of youth services to develop recommendations for a foundation budget for educational services provided to children in the care of the department of youth services; and shall submit recommendations to the secretary of administration and finance and the house and senate committees on ways and means by Dec 1, 2004 along with recommendations on how to fund these services within the parameters of chapter 70 aid or in some other manner as appropriate and shall include those recommendations in its fiscal year 2006 budget request; provided	
-----------	-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	--

	further, that the commissioner of youth services, in conjunction with the department of education, shall submit a report to the house and senate committees on ways and means not later than February 1, 2005 on the status of educational resources at the department of youth services; provided further, that the report shall review teacher retention, compare salaries within the department to statewide averages and analyze the related impact on the quality of educational services provided to youths in the custody of the department; and provided further, that the report shall include recommendations for the improvement of educational resources and costs associated with the improvements . . . . .	\$4,526,404
4200-0100	For supervision, counseling and other community-based services provided to committed youths in nonresidential care programs of the department; provided, that the commissioner may transfer up to 7 per cent of the amount appropriated herein to items 4200-0200 and 4200-0300; and provided further, that 30 days before any such transfer is made, the commissioner shall file with the secretary of administration and finance and the house and senate committees on ways and means a plan showing the amounts to be transferred and the reason for the proposed transfer . . . . .	\$20,141,916
4200-0200	For pretrial detention programs, including purchase-of-service and state-operated programs; provided, that the commissioner may transfer up to 7 per cent of the amount appropriated herein to items 4200-0100 and 4200-0300; and provided further, that 30 days before any transfer is made, the commissioner shall file with the secretary of administration and finance and the house and senate committees on ways and means a plan showing the amounts to be transferred and the reason for the proposed transfer . . . . .	\$18,907,464
4200-0300	For secure facilities, including purchase-of-service and state-operated programs incidental to the operations of the facilities; provided, that funds shall be expended for programs to address the needs of the female population including, but not limited to, the development of a stabilization unit and an independent living program, the enhancement of clinical services and at least 1 full-time female services coordinator; provided further, that the commissioner may transfer up to 5 per cent of the amount appropriated herein to items 4200-0100 and 4200-	

0200; and provided further, that 30 days before any such transfer is made, the commissioner shall file with the secretary of administration and finance and the house and senate committees on ways and means a plan showing the amounts to be transferred and the reason for the proposed transfer .....	\$86,305,310
4200-0400 The department of youth services may expend an amount not to exceed \$200,000 collected from federal reimbursements to fund internet services at institutional schools .....	\$200,000

**OFFICE OF CHILDREN, YOUTH AND FAMILY SERVICES.**

*Department of Transitional Assistance.*

4400-1000 For the central administration of the department, including the development and maintenance of automated data processing systems and services in support of department operations, and for the administration of department programs in local transitional assistance offices, including the expenses of operating a food stamp program; provided, that during fiscal year 2005 the department shall maintain 2 transitional assistance offices in the city of Springfield; provided further, that all costs associated with verifying disability for all programs of the department shall be paid from this item; provided further, that the department shall submit on a monthly basis to the house and senate committees on ways and means and the secretary of administration and finance a status report on program expenditures, savings and revenues, error rate measurements, public assistance caseloads and benefits; provided further, that the report shall comprehensively track statewide use of the emergency assistance program by eligibility category including, but not limited to, caseload, average length of use or stay and monthly expenditures; provided further, that the department shall collect all out-of-court settlement restitution payments; provided further, that the restitution payments shall include, but not be limited to, installment and lump sum payments; provided further, that notwithstanding any general or special law to the contrary, unless otherwise expressly provided, federal reimbursements received for the purposes of the department, including reimbursements for administrative, fringe and overhead costs, for the current fiscal year and prior fiscal years, shall be credited to the General Fund; provided

further, that under 21 U.S.C. section 862a(d)(1), the department shall exempt individuals from the eligibility restrictions of 21 U.S.C. section 862a, except that individuals incarcerated for a conviction which would otherwise be disqualifying under 21 U.S.C. section 862a(a) shall not be eligible for cash assistance funded through item 4403-2000 during the first 12 months after release from a correctional institution unless the individual qualifies for an exemption under subsection (e) of section 110 of chapter 5 of the acts of 1995 or a domestic violence waiver; provided further, that an application for assistance under chapter 118 of the General Laws shall be deemed an application for assistance under chapter 118E of the General Laws; provided further, that if assistance under said chapter 118 is denied, the application shall be transmitted by the department to the division of medical assistance for a determination of eligibility under said chapter 118E; provided further, that the department shall continue policies to increase participation in the food stamp program; provided further, that funds shall be expended on investigating welfare fraud at the Lowell area office and that the department shall report no later than March 21, 2005 on the results of their investigation to the house and senate committees on ways and means; provided further, that not less than \$250,000 shall be expended on services from the Food Source Hotline; provided further, that not less than \$250,000 shall be expended for the food stamp outreach program; provided further, that the department may allocate funds, not to exceed \$2,500,000 from this item to item 4400-1100 for the costs of the department's caseworkers; provided further, that the department shall, to the extent feasible within the appropriation provided, provide for extended office hours; provided further, that the department shall accomplish the staffing of these extended office hours to the maximum extent possible through the use of flex-time that will allow workers to modify their working hours to accommodate their specific personal and family needs; provided further, that the department shall, to the extent feasible within the appropriation provided, continue and expand the program of placing workers at community and human service organizations for the purposes of facilitating food stamp applications and re-determinations; and provided further, that the department shall

	report to the house and senate committees on ways and means not later than December 15, 2004 on the extended office hours and placement of workers at community and human service organizations that the department has determined is feasible within the appropriation provided and that the department will provide in the current fiscal year . . . . .	\$65,844,080
4400-1025	For domestic violence specialists at local area offices . . . . .	\$600,910
4400-1100	For the payroll of the department's caseworkers, provided that only employees of bargaining unit eight, shall be paid from this item; provided further, that the department may allocate funds, not to exceed \$1,000,000 from this item to item 4400-1000 for the administrative costs of the department of transitional assistance . . . . .	\$51,500,000
4401-1000	For a program to provide employment and training services for recipients of benefits provided under the program of transitional aid to families with dependent children; provided, that certain parents who have not yet reached the age of 18, including those who are ineligible for transitional aid to families with dependent children and who would qualify for benefits under chapter 118 of the General Laws, but for the deeming of the grandparents' income, shall be allowed to participate in the employment services program; provided further, that funds from this item may be expended on former recipients of the program for up to one year after termination of their benefits due to employment or subsection (f) of section 110 of chapter 5 of the acts of 1995; provided further, that funds from this item shall be expended for the purposes of the young parents program, transportation costs, pre-employment skills training and education programs, and structured subsidized employment services; provided further, that the department of transitional assistance may use funds from this item and shall collaborate with the department of workforce development to access funding through Title I of the federal Workforce Investment Act to ensure that sufficient resources are available to provide substantive, pre-employment skills training, including training that integrates basic education and English as a second language instruction, to recipients of transitional aid to families with dependent children who are in need of such services; provided further, that funds from this item may also be expended for re-employment services, job search assistance, vocational training	

services, job retention services, adult basic education, graduate equivalency degree courses, English as a second language courses and training programs for persons with limited English proficiency, and emergency work-related expenses for recipients, including emergency transportation costs; provided further, that the department shall inform all recipients and applicants of the full range of programs and of skills training programs funded by Title I of the federal Workforce Investment Act accessible through the one-stop career centers and adult education programs funded by the department of education available under this program; provided further, that funds may be allocated from this item to other agencies for the purposes of this program; provided further, that within 90 days of a recipient without a high school degree or a graduate equivalency degree or proficiency in English who is subject to subsection (f) of section 110 of chapter 5 of the acts of 1995 becoming eligible for benefits, the department may offer to the recipient a skills assessment to identify barriers to employment; and provided further, that all of this item is subject to appropriation and, in the event of a deficiency, nothing herein shall give rise to or shall be construed as giving rise to any enforceable right or entitlement to services in excess of the amounts appropriated by this item . . . . . \$18,998,978

4401-1100 Notwithstanding any general or special law to the contrary, the department of transitional assistance may expend reimbursements received from the United States Department of Agriculture for food stamp outreach and employment and training programs and any enhanced funding or bonuses; provided, that the department may expend such revenue for employment and training services provided to recipients of transitional aid to families with dependent children . . . . . \$3,000,000

4403-2000 For a program of transitional aid to families with dependent children; provided, that notwithstanding any general or special law to the contrary, benefits under the program of transitional aid to families with dependent children shall be paid only to citizens of the United States and to non-citizens for whom federal funds may be used to provide benefits; provided further, that notwithstanding any general or special law, or any provisions of this act to the contrary, no benefits under this item shall be made available to illegal or undocumented

aliens; provided further, that the need standard shall be equal to the standard in effect in fiscal year 2004; provided further, that the payment standard shall be equal to the need standard; provided further, that the payment standard for families who do not qualify for an exempt category of assistance under the provisions of subsection (e) of section 110 of chapter 5 of the acts of 1995 shall be  $2\frac{3}{4}$  per cent below the otherwise applicable payment standard, in fiscal year 2005, pursuant to the provisions of the state plan required under the Personal Responsibility and Work Opportunity Reconciliation Act of 1996; provided further, that the department shall notify all teen parents receiving benefits from the program of the requirements found in clause (2) of subsection (i) of said section 110 of said chapter 5; provided further, that a \$40 per month rent allowance shall be paid to all households incurring a rent or mortgage expense and not residing in public housing or subsidized housing; provided further, that a nonrecurring children's clothing allowance in the amount of \$150 shall be provided to each child eligible under this program in September, 2004; provided further, that the children's clothing allowance shall be included in the standard of need for the month of September, 2004; provided further, that benefits under this program shall not be available to those families where a child has been removed from the household pursuant to a court order after a care and protection hearing on child abuse, nor to adult recipients otherwise eligible for transitional aid to families with dependent children but for the temporary removal of the dependent child or children from the home by the department of social services in accordance with department procedures; provided further, that notwithstanding section 2 of chapter 118 of the General Laws, or any other general or special law to the contrary, the department shall render aid to pregnant women with no other eligible dependent children only if it has been medically verified that the child is expected to be born within the month such payments are to be made or within the three month period following such month of payment, and who, if such child had been born and was living with her in the month of payment would be categorically and financially eligible for transitional aid to families with dependent children benefits; provided further, that certain families that suffer a reduction

in benefits due to a loss of earned income and participation in retrospective budgeting may receive a supplemental benefit to compensate them for such loss; provided further, that no funds from this item shall be expended by the department for child care or transportation services for the employment and training program; provided further, that no funds from this item shall be expended by the department for family reunification benefits or informal child care; provided further, that the department shall provide oral and written notification to all recipients of their child care benefits on a semi-annual basis; provided further, that the notification shall include the full range of child care options available, including center-based child care, family-based child care, and in-home relative child care; provided further, that the notification shall detail available child care benefits for current and former recipients, including employment and training benefits, transitional benefits and post-transitional benefits; provided further, that the department shall work with the office of child care services to ensure that both recipients currently receiving benefits and former recipients during the one year period following termination of benefits are provided written and verbal information about child care services; provided further, that the notice shall further advise recipients of the availability of food stamps benefits; provided further, that not less than \$418,074 shall be expended for the purposes of the operation of the Transportation Assistance Program operated by the Traveler's Aid Society; provided further, that in promulgating, amending or rescinding its regulations with respect to eligibility for, or levels of, benefits under the program, the department shall take into account the amounts available to it for expenditure by this item so as not to exceed the appropriation; and provided further, that notwithstanding any general or special law to the contrary, 60 days before promulgating any eligibility or benefit changes, the commissioner shall file with the house and senate committees on ways and means and with the clerks of the senate and house of representatives a determination by the secretary of health and human services that available appropriations for the program will be insufficient to meet projected expenses and a report setting forth the text of and basis for such proposed changes ..... \$317,762,806

---

**Chap. 149**

4403-2001	For the Lift Transportation Program operated by the Traveler's Aid Society of Boston .....	\$95,000
4403-2119	For the provision of structured settings as provided in subsection (i) of section 110 of chapter 5 of the acts of 1995 for parents under the age of 20 who are receiving benefits under the transitional aid to families with dependent children program ..	\$6,063,317
4403-2120	For certain expenses of the emergency assistance program as herein delineated: (i) contracted family shelters; (ii) transitional housing programs; (iii) programs to reduce homelessness in Barnstable, Dukes and Nantucket counties; (iv) residential education centers for single mothers with children; (v) intake centers; (vi) hotel and motel payments on behalf of homeless families; and (vii) voucher shelters; provided, that eligibility shall be limited to families with income at or below 100 per cent of the federal poverty level; provided, however, that any family whose income exceeds 100 per cent of the federal poverty level while the family is receiving assistance funded by this item, shall not become ineligible for assistance due to exceeding the income limit for a period of 6 months from the date that the 100 per cent level was exceeded; provided further, that the department shall establish reasonable requirements for such families to escrow some or all of the portion of their income which exceeds 100 per cent of the federal poverty level; provided further, that any such escrowed funds shall be exempt from otherwise applicable asset limits; provided further that the family shall be allowed to withdraw the amount placed in escrow upon transition to permanent housing or losing eligibility for shelter services; provided further, that benefits under this item shall be provided only to residents who are citizens of the United States or aliens lawfully admitted for permanent residence or otherwise permanently residing under color of law in the United States; provided further, that the department shall take all steps necessary to enforce regulations to prevent abuse in the emergency assistance program; provided further, that no emergency assistance expenditures shall be paid from this item unless explicitly authorized; provided further, that no funds may be expended for heat or utility arrearages; provided further, that eligible households shall be placed in shelters as close as possible to their home community, unless a household requests otherwise; provided further, if the closest	

available placement is not within 20 miles of the household's home community, the household shall be transferred to an appropriate shelter within 20 miles of its home community at the earliest possible date, unless the household requests otherwise; provided further, that the department may add up to 150 new units of scattered site shelter above those contracted for in fiscal year 2004 provided that these new units shall be used to reduce the population placed in hotels and motels, and upon a determination that this action shall not entail additional costs to the family shelter program; provided further, that these new units shall be located in areas of greatest need to facilitate placement of eligible families within 20 miles of their home communities; provided further, that the department shall report quarterly to the house and senate committees on ways and means on the status of efforts to increase the number of units of scattered site shelter above the number contracted for in fiscal year 2004, any barriers encountered to increasing the number of units of scattered site shelter and the plan of action or recommendations for overcoming any barriers encountered; provided further, that the department shall make every effort to insure that children receiving services from this item are able to continue attending school in the community in which they lived prior to receiving services funded from this item; provided further, that no hotel or motel stay funded from this item shall establish tenancy on the part of the family; provided further, that in promulgating, amending or rescinding regulations with respect to eligibility or benefits under this program, the department shall take into account the amounts available to it for expenditure in this item so as not to exceed the amount appropriated herein; provided further, that notwithstanding any general or special law to the contrary, 60 days before promulgating any such eligibility or benefit changes, the commissioner shall file with the house and senate committees on ways and means and with the clerks of the house of representatives and the senate a determination by the secretary of health and human services that available appropriations for the program will be insufficient to meet projected expenses and a report setting forth such proposed changes; provided further, that nothing herein shall give rise to or shall be construed as giving rise to enforceable legal rights in any party or

an enforceable entitlement to services other than to the extent that such rights or entitlements exist under the regulations promulgated by the department; provided further, that nothing in the preceding proviso shall authorize the department to alter eligibility criteria or benefit levels, except to the extent that such changes are needed to avoid a deficiency in this item; provided further, that the department shall report quarterly to the house and senate committees on ways and means on the number of families who apply for emergency assistance funded family shelter, the number of families approved for shelter, the number of families denied shelter along with reasons for denials, the home community of families receiving shelter, the number of families receiving shelter within each home community, the number of available shelter slots within each home community, the income level of families receiving shelter, the number of families receiving shelter who had previously accessed state-funded programs to reduce homelessness and the programs that had been accessed, the composition of families receiving shelter, the reason that the household is seeking emergency family shelter, the reasons that families exit shelter, including reasons for voluntary departure and termination, exiting families' housing plans, including type of housing arrangement, subsidy status, monthly rent, and gross monthly income, and any other information that the department determines to be necessary in evaluating the operation of the emergency assistance family shelters program; and provided further, that the report shall also include information, by type of shelter, on average length of stay, average cost per household served, average number of shelter slots not used either as the result of no placement being made or of a placed family not making use of shelter, and an analysis of this data, including an analysis of causes relating to any significant differences in the data for each type of shelter . . . . . \$73,637,389

4405-2000 For the state supplement to the supplemental security income program for the aged and disabled, including a program for emergency needs for supplemental security income recipients; provided, that the expenses of special grants recipients residing in rest homes, as provided in section 7A of chapter 118A of the General Laws, may be paid from this item; provided further, that the department, in collaboration

	with the division of medical assistance, may fund an optional supplemental living arrangement category under the supplemental security income program that makes payments to persons living in assisted living residences certified under chapter 19D of the General Laws who meet the income and clinical eligibility criteria established by the department and the division; provided further, that the optional category of payments shall only be administered in conjunction with the medicaid group adult foster care benefit; and provided further, that reimbursements to providers for services rendered in prior fiscal years may be expended from this item . . . . .	\$203,272,025
4406-3000	For the homelessness program to assist individuals who are homeless or in danger of becoming homeless, including assistance to organizations which provide food, shelter, housing search and limited related services to the homeless and indigent; provided further, that the department may allocate funds to other agencies for the purposes of this program; and provided further, that all organizations that received funds from this item in fiscal year 2004 shall receive funds from this item in the current fiscal year . . . . .	\$30,000,000
4408-1000	For a program of cash assistance to certain residents of the commonwealth, entitled emergency aid to the elderly, disabled and children found by the department to be eligible for such aid under chapter 117A of the General Laws and regulations promulgated by the department and subject to the limitations of appropriation therefore; provided, that benefits under this item shall only be provided to residents who are citizens of the United States or qualified aliens or noncitizens otherwise permanently residing in the United States under color of law and shall not be provided to illegal or undocumented aliens; provided further, that the payment standard shall equal the payment standard in effect under the general relief program in fiscal year 1991; provided further, that the department may provide benefits to persons age 65 or older who have applied for benefits under chapter 118A of the General Laws, to persons suffering from a medically determinable impairment or combination of impairments which is expected to last for a period as determined by department regulations and which substantially reduces or eliminates the individual's capacity to support himself and which has been verified by a competent authority, to certain	

persons caring for a disabled person, to otherwise eligible participants in the vocational rehabilitation program of the Massachusetts rehabilitation commission and to dependent children who are ineligible for benefits under both chapter 118 of the General Laws and the separate program created by section 210 of chapter 43 of the acts of 1997 and parents or other caretakers of dependent children who are ineligible under said chapter 118 and under the separate program; provided further, that no ex-offender, person over age 45 without a prior work history or person in a residential treatment facility shall be eligible for benefits under this program unless the person otherwise meets the eligibility criteria described in this item and defined by regulations of the department; provided further, that any person incarcerated in a correctional institution shall not be eligible for benefits under the program; provided further, that no funds shall be expended from this item for the payment of expenses associated with any medical review team, other disability screening process or costs associated with verifying disability for this program; provided further, that the department shall promulgate emergency regulations under chapter 30A of the General Laws to implement the changes to this program required by this item promptly and within the appropriation; provided further, that in initially implementing the program for this fiscal year, the department shall include all eligibility categories permitted herein at the payment standard in effect for the former general relief program in fiscal year 1991; provided further, that in promulgating, amending or rescinding its regulations with respect to eligibility or benefits, including the payment standard, medical benefits and any other benefits under this program, the department shall take into account the amounts available to it for expenditure by this item so as not to exceed the amount appropriated herein; provided further, that the department may promulgate emergency regulations under chapter 30A of the General Laws to implement these eligibility or benefit changes or both; provided further, that nothing herein shall be construed as creating any right accruing to recipients of the former general relief program; provided further, that reimbursements collected from the Social Security Administration on behalf of former clients of the emergency

aid to the elderly, disabled and children program, or unprocessed payments from the program that are returned to the department shall be credited to the General Fund; provided further, that notwithstanding any general or special law to the contrary, the funds made available herein shall be the only funds available for the program, and the department shall not spend funds for the program in excess of the amount made available herein; and provided further, that notwithstanding any general or special law this item to the contrary, 60 days before implementing any eligibility or benefit changes, or both, the commissioner shall file with the clerks of the house of representatives and the senate a determination by the secretary of health and human services that available appropriations for the program will be insufficient to meet projected expenses and a report setting forth the proposed changes ..... \$70,079,481

**OFFICE OF HEALTH SERVICES.**

*Department of Public Health.*

- 4510-0099 The department may expend an amount not to exceed \$6,000,000 in revenues collected from licensing, inspections and records for costs associated with the administration of the department ..... \$6,000,000
- 4510-0100 For the operation of the department, the determination of need program, established under section 25C of chapter 111 of the General Laws, the health statistics program, including the operation of a cancer registry and occupational lung disease registry, and the continuation of the cardiac surgery data collection and validation program to collect and validate data from all hospitals in the commonwealth that perform open heart surgery; provided, that the position of assistant commissioner shall not be subject to chapter 31 of the General Laws; provided further, that funds may be expended for the weapons-related injury surveillance system; and provided further, that funds may be expended for the Massachusetts Violence Prevention Task Force ..... \$18,302,427
- 4510-0106 For the end of life care commission, established by section 480 of chapter 159 of the acts of 2000; provided, that not more than \$75,000 shall be expended from revenues associated with grant and development activities ..... \$75,000

- 4510-0110 For community health center services; provided, that no funds shall be expended in the AA subsidiary for any personnel-related costs; provided further, that the department shall submit a tentative allocation schedule of the community health center grants to the house and senate committees on ways and means not later than February 1, 2005; provided further, that not less than \$50,000 shall be expended for the Cape Cod Free Clinic; provided further, that not less than \$100,000 shall be expended for the Elder Health Center in Saugus; and provided further, that not less than \$100,000 shall be expended for the Duffy Health Center . . . . . \$4,631,635
- 4510-0150 For the managed care program at community health centers known as CenterCare; provided, that no funds shall be expended in the AA subsidiary for any personnel-related costs; provided further, that \$225,000 shall be expended on a statewide program of technical assistance to community health centers to be provided by a state primary care association qualified under section 330 (f)(1) of the United States Public Health Service Act, 42 U.S.C. section 254c(f)(1); and provided further, that the department shall assist professional and nonprofit agencies dedicated to the advancement of the scope and nature of health care services delivered in communities by community health centers and to pursue available federal technical assistance funding . . . . . \$2,654,974
- 4510-0600 For an environmental and community health hazards program, including control of radiation and nuclear hazards, consumer products protection, food and drugs, lead poisoning prevention in accordance with chapter 482 of the acts of 1993, lead-based paint inspections in day care facilities, inspection of radiological facilities, licensing of x-ray technologists and the administration of the division of environmental epidemiology and toxicology for the purposes of chapter 470 of the acts of 1983, the "Right-to-Know" law; provided, that the expenditures from this item for the fair packaging and labeling survey program shall be contingent upon the prior approval of the proper federal authorities for reimbursement of 100 per cent of the amounts so expended; provided further, that \$150,000 shall be expended for a contract with the ALS Therapy Development Foundation to study the current level of research for the prevention and treatment of amyotrophic lateral sclerosis in the commonwealth; provided further, that

\$150,000 shall be expended for the ALS registry created by section 26 of chapter 140 of the acts of 2003; provided further, that \$30,000 shall be expended for a renal disease program administered by the National Kidney Foundation of Massachusetts, Rhode Island and Vermont for nutritional supplements and early intervention services for those affected by renal disease and those at risk of renal disease; provided further, that not less than \$100,000 shall be expended for the purposes for research and prevention activities associated with Lyme disease to be conducted by the Barnstable County Department of Health and the Environment; provided further, that not less than \$14,800 shall be allocated to the Franklin Regional Council of Governments for costs associated with the regional public health program; provided further, that \$195,000 shall be expended for the purpose of the director of the bureau of environmental health assessment of the department of public health to conduct an environmental risk assessment of the health impacts of the General Lawrence Logan Airport in the East Boston section of the city of Boston on any community that is located within a 5 mile radius of the airport and is potentially impacted by the airport; provided further, that the assessment may include, but not be limited to, examining incidences of respiratory diseases and cancers and performing medical and laboratory tests and examinations of residents of these communities; provided further, that the bureau shall report its findings together with any recommended response actions by the commonwealth to the house and senate committees on ways and means not later than February 1, 2005; provided further, that not less than \$81,000 shall be expended for the maintenance of a statewide lupus database; provided further, that \$50,000 shall be expended for the purpose of studying the public health impacts of TCE, benzene and other contaminants found in the Barnes and Southampton aquifers located within the towns of Southampton and Easthampton and the cities of Holyoke and Westfield; and provided further, that no funds appropriated in this item shall be expended for the purpose of siting or locating a low-level radio-active waste facility in the commonwealth . . . . . \$3,146,865

4510-0615 The department may expend an amount not to exceed \$150,000

from assessments collected under section 5K of chapter 111 of the General Laws for services provided to monitor, survey and inspect nuclear power reactors; provided, that the department may expend revenues not to exceed \$1,174,195 from fees collected from licensing and inspecting users of radioactive material within the commonwealth under licenses presently issued by the nuclear regulatory commission; provided further, that the revenues may be used for the costs of both programs, including the compensation of employees; provided further, that for the purpose of accommodating discrepancies between the receipt of retained revenues and related expenditures, the department may incur expenses and the comptroller may certify for payment amounts not to exceed the lower of this authorization or the most recent revenue estimate as reported in the state accounting system; and provided further, that the department shall report quarterly to the house and senate committees on ways and means the total amount of revenue collected, a ratio of revenue collected per employee, the total number of inspections and a ratio of inspections per employee . . . . . \$1,324,195

4510-0616 For a drug registration and monitoring program; provided, that the department may expend an amount not to exceed \$551,110 from revenues collected from fees charged to registered practitioners, including physicians, dentists, veterinarians, podiatrists and optometrists for controlled substance registration; provided further, that funds may be expended from this item for the costs of personnel; and provided further, that for the purpose of accommodating discrepancies between the receipt of retained revenues and related expenditures, the department may incur expenses and the comptroller may certify for payment amounts not to exceed the lower of this authorization or the most recent revenue estimate as reported in the state accounting system . . . . \$551,110

4510-0710 For the operation of the division of health care quality and the office of patient protection; provided, that the division shall be responsible for assuring the quality of patient care provided by the commonwealth's health care facilities and services, and for protecting the health and safety of patients who receive care and services in nursing homes, rest homes, clinical laboratories, clinics, institutions for the mentally re-

tarded and the mentally ill, hospitals and infirmaries, including the inspection of ambulance services; provided further, that the division shall coordinate its work with the boards of registration under the department of public health to promote quality patient care in facilities licensed by the department, and shall report specific instances of preventable medical error that involve an individualized component investigated by the board of registration and a systemic or institutional component investigated by the division, the medical, administrative, educational and disciplinary outcomes of such instances of preventable medical error, and the ways in which coordination promotes quality patient care, fairness and accuracy in disciplinary actions, and better provider and facility education; provided further, that investigators shall conduct investigations of abuse, neglect, mistreatment and misappropriation under sections 51 and 72H of chapter 111 of the General Laws; provided further, that the division shall assign such investigators to perform their duties on staggered shifts which shall be established by the division in order to provide coverage adequate to ensure that all complaints of abuse, neglect, mistreatment and misappropriation are investigated under said sections 51 and 72H of said chapter 111, and that the department shall investigate complaints during evening and weekend hours as needed to assess the validity of the complaint; provided further, that not less than 10 per cent of all routine surveys of the facilities are completed during evening or weekend hours; provided further, that the division shall minimize the need for payment of overtime to investigators in both emergent and non-emergent situations and shall not authorize the assignment of overtime hours for any investigator when the duties can be performed on a non-overtime basis by another investigator; provided further, that all investigators in the division of health care quality responsible for the investigations shall receive training by the medicaid fraud control unit of the office of the attorney general under a comprehensive training program to be developed by the division and the unit; provided further, that the division shall report quarterly to the house and senate committees on ways and means on the number of incident reports and, for those reports requiring investigations under said section 72H of said chapter 111, indicating for each such

report, the time in which: (1) the division completed its investigation; (2) the division made an evaluation and determination of the validity of the report; (3) made a referral of such report to the appropriate agency or agencies; provided further, that if in any quarter the division maintains a backlog of cases requiring investigation that have not been investigated, evaluated and determined within the time frames established in said section 72H of said chapter 111, the division shall include in the report an explanation as to the reasons therefore; provided further, that the division shall include in the report a list of all instances of the payment of overtime for investigators and the justification therefore and in each quarter shall compare the overtime expenditures from this item with the overtime expenditures made in the corresponding quarter of fiscal year 2004; provided further, that the division shall continue to research and develop, in consultation with the nursing home industry and consumer representatives, appropriate confidential survey tools to assess consumer satisfaction in long-term care facilities; provided further, the division shall continue a comprehensive training, education and outreach program for nursing home administrators and managers and other supervisory personnel in long-term care to improve the quality of care in long-term care facilities; provided further, that the program shall promote the use of best practices, models of quality caregiving and the culture of workforce retention within the facilities and shall focus on systemic ways to reduce deficiencies; and provided further, that the department shall report to the house and senate committees on the results of the program not later than April 30, 2005 ..... \$7,620,835

4510-0712 The department may expend an amount not to exceed \$504,922 in revenues collected from the licensure of health facilities for program costs of the division of health care quality; provided, that the department may expend an amount not to exceed \$800,000 from revenues collected from individuals applying for emergency medical technician licensure and recertification; and provided further, that notwithstanding any general or special law to the contrary, for the purpose of accommodating timing discrepancies between the receipt of retained revenue and related expenditures, the department may incur expenses and the comptroller may certify for payment

	amounts not to exceed the lower of this authorization or the most recent revenue estimate therefore as reported in the state accounting system .....	\$1,304,922
4510-0720	For a scholarship program for certified nurses' aide and direct care worker training; provided, that no funds shall be expended AA subsidiary for any personnel-related costs; provided further, that the department shall establish appropriate guidelines and application criteria for the administration of the program; provided further, that the scholarships shall cover the full cost of tuition to an approved certified nurses' aide or long-term care direct worker training program, including approved programs providing for cross-training; provided further, that funds may also be available to provide adult basic education and English as a second language training for applicants otherwise meeting criteria for the scholarships, as well as pilot training programs using enhanced curricula designed to support increased retention; provided further, that the department shall, in consultation with the nursing home industry, consumer groups, the department of labor and workforce development, the Commonwealth Corporation, training providers and other appropriate state and local agencies, conduct outreach regarding the availability of such scholarships; provided further, that the department shall consult with the scholarship program advisory council and the extended care career ladder initiative to review and recommend new training requirements for certified nurses' aides, home health aides and home care workers to improve the quality of the direct care workforce and the quality of care provided in all long-term care settings by developing skill standards, supporting the transition from training to work, improving retention, promoting portability, recognizing career advancement curricula and addressing language and education barriers; and provided further, that costs for outreach activities shall not exceed 3 per cent of the amount appropriated herein and administrative costs of the program shall not exceed 3 per cent of the amount appropriated herein .....	\$400,000
4510-0721	For the costs of personnel, administration, information technology, equipment, newsletter and other essential spending of the board of registration in nursing; provided, that the board	

shall prepare an annual report detailing the total number of cases referred to and investigated by the board, the resolution of such cases, the approximate number of cases assigned to each investigator, and any increases or decreases in cases referred to the board in the previous 6 months; provided further, that the board shall submit each such report to the house and senate committees on ways and means, the joint committee on health care and the commissioner of the department of public health; provided further, that the board shall prepare a compilation of cases involving preventable medical error that resulted in harm to a patient or health care provider for the purpose of assisting health care providers, hospitals and pharmacies to modify their practices and techniques to avoid error; and provided further, that the board shall submit the compilation to the house and senate committees on ways and means, the joint committee on health care and the commissioner of the department of public health by January 4, 2005 and shall make the compilation widely available, including by electronic means, to the public and to all hospitals, pharmacies and health care providers doing business in the commonwealth ..... \$1,502,263

4510-0722 For the costs of personnel, administration, newsletter, dues, travel, public information advertising, and other expenses of the board of registration in pharmacy; provided, that the board shall prepare an annual report detailing the total number of cases referred to and investigated by the board, the resolution of such cases, the approximate number of cases assigned to each investigator, and any increases or decreases in cases referred to the board in the previous 6 months; provided further, that the board shall submit each such report to the house and senate committees on ways and means, the joint committee on health care and the commissioner of the department of public health; provided further, that the board shall prepare a compilation of cases involving preventable medical error that resulted in harm to a patient or health care provider for the purpose of assisting health care providers, hospitals and pharmacies to modify their practices and techniques to avoid error; and provided further, that the board shall submit said compilation to the house and senate committees on ways and means, the joint committee on health

	care and the commissioner of the department of public health by January 4, 2005 and shall make said compilation widely available, including by electronic means, to the public and to all hospitals, pharmacies and health care providers doing business in the commonwealth	\$477,689
4510-0723	For the operation and administration of the board of medicine and the committee on acupuncture; provided, that the board of registration in medicine shall prepare an annual report addressing its activities with respect to licensing, enforcement, law and policy, patient safety, and other relevant topics, including, but not limited to, the total number of cases referred to and reviewed by the board, the resolution of the cases, the approximate number of cases assigned to each investigator, any increases or decreases in cases referred to the board in the previous 6 months; a compilation of cases from its patient care assessment program describing incidents involving preventable medical error that resulted in harm to patient or health care provider for the purpose of assisting the providers, hospitals, and pharmacies to modify their practices and techniques to avoid error, and any other relevant topics; provided further, that the board shall submit the report to the general court, house and senate committees on ways and means and the joint committee on health care by January 4, 2005 and shall make the compilation widely available, including by electronic means, to the public; and provided further, that the board shall promulgate rules and regulations to coordinate their patient care assessment program with the boards of nursing and pharmacy	\$2,128,072
4510-0725	For the costs of personnel, administration, public information advertising and other expenses of certain health boards of registration, including the boards of registration in dentistry, nursing home administrators, physician assistants, perfusionists, and respiratory care; provided further, that the department of public health, in cooperation with the division of professional licensure, shall submit a plan to the house and senate committees on ways and means for transferring the boards of allied health professionals, podiatry, optometry, chiropractors, health officers, speech language pathology and audiology, dispensing opticians, psychologists, hearing instruments specialists and dieticians and nutritionists from	

	the division of professional licensure to the department of public health not later than February 1, 2005; and provided further, that the plan shall consider current funding levels and shall propose no additional costs . . . . .	\$401,742
4510-0726	The board of registration in medicine, including the physician profiles program, may expend revenues not to exceed \$300,000 from new revenues associated with increased license and renewal fees; provided, that this amount shall be in excess of the amount prescribed in section 1B . . . . .	\$300,000
4510-0790	For regional emergency medical services; provided, that no funds shall be expended in the AA subsidiary for any personnel-related costs; provided further, that the regional emergency medical services councils, designated as such in accordance with 105 CMR 170.101 and the C-MED communications as of January 1, 1992, shall remain the designated councils and C-MEDs; provided further, that the department shall report quarterly on the number of investigations of ambulance services performed by said inspectors and by inspectors funded in items 4510-0710 and 4510-0712 as well as the number of investigations pending at the end of each quarter and the reasons therefore; provided further, that the department, in conjunction with the regional emergency services councils, notwithstanding section 27C of chapter 29 of the General Laws to the contrary, shall promulgate regulations to ensure that all basic, intermediate, and paramedic emergency medical technicians are certified to use and have available epinephrine for the emergency treatment of anaphylaxis; provided further, that the department shall report to the house and senate committees on ways and means not later than January 15, 2005 on the implementation of the certifications and availability of epinephrine; provided further, that the department shall widely disseminate this requirement to all relevant parties; and provided further, that funds shall be expended to provide continuous ambulance coverage and public safety personnel to mitigate adverse effects of the construction of the central artery and third harbor tunnel project in the city of Charlestown, pursuant to subsection (f) of chapter 479 of the acts of 1990 . . . . .	\$1,246,896
4510-0810	For a statewide sexual assault nurse examiner program and for the care of victims of sexual assault; provided, that no funds shall be expended in the AA subsidiary for any personnel-re-	

	lated costs; and provided further, that the program shall be established by the department to operate under specific statewide protocols and by an on-call system of nurse examiners .....	\$733,409
4512-0103	For acquired immune deficiency syndrome services and programs; provided, that no funds shall be expended in the AA subsidiary for any personnel-related costs; provided further, that particular attention shall be paid to direct the funding proportionately amongst each of the demographic groups afflicted by HIV/AIDS; provided further, that funds shall be expended for rental housing subsidies for the purposes of preventing admissions to acute hospitals, chronic hospitals and nursing homes for persons with acquired immune deficiency syndrome; provided further, that the department may contract for the administration of this program; provided further, that the costs of this administrative contract shall not be expended from this item; provided further, that rents payable by tenants shall not be less than 30 per cent of total household income if heat and cooking fuel are provided by the landlord and shall not be less than 25 per cent of total household income if heat and cooking fuel are not provided; provided further, that no funds shall be expended for subsidies for housing units in excess of the number of units funded on June 30, 1991; provided further, that the department shall not enter into any new housing contracts or expend funds for such new contracts in fiscal year 2005 that would fund units in excess of the number of units funded on June 30, 2004; provided further, that not less than \$150,000 shall be expended for the Springfield Public Health Department; and provided further, that no funds from this item shall be expended for disease research in fiscal year 2005 .....	\$31,644,099
4512-0106	The department of public health may expend an amount not to exceed \$1,200,000 from revenues received from pharmaceutical manufacturers participating in the section 340B rebate program administered by the federal health resources and services administration and office of drug pricing .....	\$1,200,000
4512-0200	For the division of substance abuse services, including a program to reimburse driver alcohol education programs for services provided for court adjudicated indigent clients; provided, that no funds shall be expended in the AA subsidiary for any per-	

sonnel-related costs; provided further, that contracts shall not be awarded to those organizations providing services to non-Massachusetts residents; provided further, that the commissioner of public health shall ensure that funding is allocated in a manner that reflects the level of need among demographic groups; provided further, that not less than \$50,000 shall be expended for the Louis D. Brown Peace Institute for homicide victims' family support services and anti-violence advocacy programs; provided further, that not less than \$650,350 shall be expended for a contract with STEP Inc. for sobriety treatment, education and prevention; provided further, that not less than \$75,000 shall be expended for the Tynan Community Center's Adolescence Wellness program in the city of Boston; provided further, that not less than \$100,000 shall be expended for the South Boston Youth Collaborative for the purposes of responding to adolescent suicide cluster and drug abuse in the South Boston section of the city of Boston; provided further, that not less than \$370,800 shall be expended to the Gavin Foundation for an adolescent residential facility for substance abuse and rehabilitation services in the South Boston section of the city of Boston; provided further, that not less than \$90,000 shall be expended for the Russian Teens-at-Risk program operated by the Jewish Family Children's Service in the cities of Boston and Lynn and the town of Brookline; provided further, that not less than \$100,000 shall be expended for the Link House, Inc., in the town of Salisbury for purposes of establishing transitional housing for women in recovery from substance abuse; provided further, that \$500,000 shall be expended for the 65-person recovery shelter run by the Pine Street Inn in the north Dorchester section of the city of Boston; provided further, that not less than \$45,000 shall be expended in grants for the Framingham Coalition for the Prevention of Alcohol and Drug Abuse; provided further, that not more than \$37,000 shall be expended for an intervention prevention counselor for Concord-Carlisle regional school district; provided further, that \$9,445,052 shall be expended to provide Transitional Support Services with particular attention paid to allocating the funds proportionately amongst each of the demographic groups affected by alcohol and illicit

drug addiction and dependence; provided further, that not less than \$320,000 shall be expended for a contract with the Gavin Foundation to provide a total immersion program in conjunction with the probation department of South Boston division of the district court department of the trial court and other district courts; provided further, that \$99,000 shall be expended for Self Esteem Boston; provided further, that not less than \$90,000 shall be expended for Franklin Medical Center's Beacon Recovery program at the Orange Recovery House; provided further, that an additional \$100,000 shall be expended for a contract with Bay Cove Human Services, Inc. for the purpose of establishing an independent licensed halfway house in Charlestown, in collaboration with the Charlestown Recovery House, Inc. for persons in recovery from alcoholism and chemical dependency; provided further, that not less than \$90,000 shall be expended for a batterer prevention program in the city of New Bedford; provided further, that not less than \$99,925 shall be expended for Latinas Y Ninos to provide a full-time child advocate-parent educator specialist to attend to the needs of Latino women in recovery with a focus on pregnant women, new parents, and mothers recently reunified with their children; provided further, that not less than \$250,000 shall be expended for the Latino After School Initiative; provided further, that not less than \$100,000 shall be expended for the Springfield Catchment Area with the Northern Educational Services, Inc. (NES), as the lead agency; provided further, that not less than \$50,000 shall be expended for the REACH program; provided further, that not less than \$60,000 shall be provided to Project COPE, Inc., in Lynn for the prevention and education of the problems associated with OxyContin and heroine use; provided further, that not less than \$50,000 shall be expended for the New Beginnings program; provided further, that \$100,000 shall be expended for a special commission relative to eliminating cervical cancer in the commonwealth, consisting of seventeen members, including five members appointed by the Speaker of the House, at least one of whom shall also be a member of the Massachusetts Caucus of Women Legislators, five members appointed by the President of the Senate, at least one of whom shall also be a member of

the Massachusetts Caucus of Women Legislators, five members appointed by the President of the Senate, at least one of whom shall also be a member of the Massachusetts Caucus of Women Legislators, and seven members appointed by the Governor, including one member from the American Cancer Society, one representative of a women's health organization, one member of the health insurance industry, one member of the American College of Obstetrics and Gynecology, the State Epidemiologist, and two members at large; provided further, that the chair of said commission shall be appointed by the Speaker of the House and shall be a member of the Massachusetts Caucus of Women Legislators, and the vice-chair of said commission shall be the Chair for the Health Care Committee; provided further, that said commission shall have the following duties: (1) to undertake a statistical and qualitative examination of the prevalence and burden of cervical cancer; (2) to raise public awareness on the causes and capture of cervical cancer, personal risk factors, value of prevention, early detection, option for testing, treatment costs, new technology, medical care reimbursement, and physician education; (3) to identify priority strategies, new technologies, or newly introduced vaccines which are effective in preventing and controlling the risk of cervical cancer; (4) to identify and examine the limitations of existing laws, regulations, programs and services with regard to coverage and awareness issues for cervical cancer and (5) to receive and to consider reports and testimony from individuals, local health departments, community-based organizations, voluntary health organizations, and other public and private organizations statewide to learn more about contributions to cervical cancer diagnosis, prevention, and treatment and more about improving cervical cancer prevention diagnosis, and treatment in the commonwealth; and provided further, that said commission shall report to the clerk of the house of representatives and to the house and senate committees on ways and means the results of its investigation and study and its recommendations on or before the fourth anniversary of the commission's establishment . . . \$36,587,349

4512-0225 The department of public health may expend for a compulsive gamblers' treatment program an amount not to exceed \$654,942 from unclaimed prize money held in the State Lot-

	tery Fund for more than 1 year from the date of the drawing when the unclaimed prize money was won, and from the proceeds of a multi-jurisdictional lottery game under subsection (e) of section 24A of chapter 10 of the General Laws; provided, that the state comptroller shall transfer the amount to the General Fund . . . . .	\$654,942
4512-0500 For	dental health services; provided, that no funds shall be expended in the AA subsidiary for any personnel-related costs; provided further, that of the amount appropriated in this item, funds shall be expended to maintain a program of dental services for the developmentally disabled; provided further, that not less than \$122,000 shall be allotted to the Doherty Dental Health Clinic in the city of Taunton for the basic dental needs of moderate and low income residents of Southeastern Massachusetts; and provided further, that the department shall submit to the house and senate committees on ways and means a quarterly report on the number of children served by this dental health services program and the number of children waiting to be served by the program . . . . .	\$1,556,150
4513-1000 For	the operation of the bureau of family health services; provided, that no funds shall be expended in the AA subsidiary for any personnel-related costs; provided further, that funds shall be expended on family planning clinics, rape crisis centers and primary care services for women and children; provided further, that the amount appropriated herein shall be allocated in the same proportion of the allocation of funds appropriated in this item in fiscal year 2003; provided further, that not less than \$450,000 shall be directed to community health centers to provide maternal-child health services through combined primary care; provided further, that not less than \$50,000 shall be expended for the Molly Bish Institute for Child Safety at Mount Wachusett Community College; provided further, that \$50,000 shall be expended for Falmouth Family Planning; provided further, that not less than \$120,000 shall be expended for the public health model of community engagement and intervention for sexual violence and intimate partner violence in the homosexual male community; and provided further, that of the amount appropriated in this item, funds may be expended for rape prevention and victim services, including the statewide Spanish language hotline for	

	sexual abuse, family planning services, the Northeastern University conflict resolution program, Latinas y Ninos and statewide suicide and violence prevention outreach to gay and lesbian youth .....	\$7,010,000
4513-1002	For women, infants and children's (WIC) nutrition services in addition to funds received under the federal nutrition program; provided, that no funds shall be expended in the AA subsidiary for any personnel-related costs; provided further, that all new WIC cases, in excess of fiscal year 1991 caseload levels, shall be served in accordance with priority categories 1 through 7, as defined by the state WIC program; and provided further, that not less than \$680,000 shall be expended for the Growth and Nutrition Program .....	\$12,571,048
4513-1010	The department of public health may expend an amount not to exceed \$2,700,050 generated from revenues received from the collection of federal financial participation for early intervention services delivered to medicaid-eligible children by developmental educators and professionals in related disciplines; provided, that nothing herein shall give rise to or shall be construed as giving rise to enforceable legal rights to any such services or an enforceable entitlement to the services funded herein; and provided further, that the revenue may be used to pay for current and prior year claims .....	\$2,700,050
4513-1012	The department of public health may expend an amount not to exceed \$23,230,000 from revenues received from the federal cost-containment initiatives including, but not limited to, infant formula rebates and Northeast Dairy Compact reimbursements; provided, that for the purpose of accommodating discrepancies between the receipt of retained revenues and related expenditures, the department may incur expenses and the comptroller may certify for payment amounts not to exceed the lower of this authorization or the most recent revenue estimate as reported in the state accounting system .....	\$23,230,000
4513-1020	For the early intervention program; provided, that no funds shall be expended in the AA subsidiary for any personnel-related costs; provided further, that the department shall report quarterly to the house and senate committees on ways and means the total number of units of service purchased and the total expenditures for the units of service paid by the department, the division of medical assistance, and by third party payers	

for early intervention services for the following services categories: home visit, center-based individual, child-focused group, parent-focused group, screening, and assessment; provided further, that the department shall make all reasonable efforts to secure third party and Medicaid reimbursements for the services funded herein; provided further, that funds from this item shall be expended for a reserve to provide respite services to families of children enrolled in early intervention programs who have complex care requirements, multiple disabilities and extensive medical and health needs; provided further, that priority shall be given to low and moderate income families; provided further, that the department shall submit to the house and senate committees on ways and means a report on the number of families served by said program and the amount of funds appropriated herein granted to qualified families not later than February 1, 2005; provided further, that no claim for reimbursement made on behalf of an uninsured person shall be paid from this item until the program receives notice of a denial of eligibility for the MassHealth program from the division of medical assistance; and provided further, that nothing stated herein shall give rise to or shall be construed as giving rise to enforceable legal rights to any such services or an enforceable entitlement to the early intervention services funded in this item . . . . . \$29,270,778

4513-1023 For the costs associated with the implementation of the universal newborn hearing program; provided, that no funds shall be expended in the AA subsidiary for any personnel-related costs; and provided further, that the funds appropriated in this item shall be expended for the notification of and follow through with affected families, primary care providers and early intervention programs upon the department's receipt of data indicative of potential hearing disorders in newborns . . . . . \$83,060

4513-1026 For the provision of statewide and community-based suicide prevention, intervention, post-vention and surveillance activities and the implementation of a statewide suicide prevention plan; provided, that no funds shall be expended in the AA subsidiary for any personnel-related costs; provided further, that the department, in coordination with the department of mental health, shall provide grant funds for locally targeted

suicide prevention, intervention and postvention activities; provided further, that any department, group or institution applying for these grants shall state the program's goals, feasibility and effectiveness, such that other communities may replicate this program, document how the program replicates or builds upon relevant evidence-based strategies or tests new strategies, describe the activities to be undertaken and include an evaluation component in the program; provided further, that prevention and intervention activities shall be targeted toward identifying and assisting those at risk; provided further, that prevention and intervention activities shall include, but not be limited to, training programs about the recognition and treatment of suicidal behavior for professionals who are in regular contact with at-risk individuals, collaborative work with emergency rooms and doctors to disseminate information regarding follow-up services for known attempters and efforts to increase public knowledge of suicide prevention; provided further, that postvention activities shall be targeted toward family and friends of individuals who have attempted or completed suicide; provided further, that postvention activities shall include, but not be limited to, training for first-responders about sensitive and responsible ways of interacting with the families of suicide victims, efforts to increase survivors' access to mental health services and to decrease the stigma associated with their roles as survivors and the development of comprehensive support programs to facilitate positive coping among survivors; provided further, that surveillance activities shall be targeted toward increasing the accuracy of statistics on suicide morbidity and the availability of information on suicide attempts and ideation; provided further, that surveillance activities shall include, but not be limited to, efforts to increase both the quantity and quality of suicide data collected by first responders, hospital staff and the department and the development of a system for accessing and collecting data from suicide survivors; provided further, that funds from this item shall not be transferred to any other program or item; provided further, that the departments shall, in consultation with the commissioner of education, report to the house and senate committees on ways and means on the status of statewide and community-based suicide prevention, intervention,

Chap. 149

	postvention, and surveillance activities not later than June 30, 2005 .....	\$250,000
4513-1112	For a prostate cancer screening, education and treatment program; provided, that screening, education and treatment shall have a particular focus on the high rate of prostate cancer among African American males; and provided further, that no funds shall be expended in the AA subsidiary for any personnel-related costs .....	\$1,000,000
4513-1114	For the purposes of the Hepatitis C program, including mitigating the effects of Hepatitis C; provided, that no employees shall be paid from this item; provided further, that funds shall be expended to increase public awareness and provide health care provider information; provided further, that awareness efforts shall be presented in multiple languages and in a culturally appropriate manner where applicable; provided further, that hepatitis C prevention, counseling and testing and case management services shall be integrated into existing substance abuse, HIV/AIDS and STD service programs; and provided further, that funds herein shall supplement, and not supplant, funding for such purposes in item 4580-1000 .....	\$562,876
4513-1115	For a multiple sclerosis screening, information, education and treatment program; provided, that no state employees shall be paid from this item; and provided further, that funds appropriated in this item shall be expended for the Multiple Sclerosis Home Living Independently Navigating Key Services program administered by the Central New England Chapter of the National Multiple Sclerosis Society to maximize matching dollars from the Society, to be used exclusively for the purposes of the program .....	\$162,368
4513-1121	For a statewide stroke education and public awareness program; provided, that no employees shall be paid from this item; provided further, that such program shall expend funds to educate the public and providers, including emergency medical systems personnel, medical dispatchers and fire and police department personnel, about the warning signs of stroke, the recognition of stroke symptoms, and the importance of timely and appropriate acute care treatment; provided further, that the department shall coordinate such program with any ongoing federally-funded statewide efforts, including any program funded by federal cardiovascular health initiative grants; and provided further, that the program	

shall seek to maximize, through grant development or public-private partnerships, available sources of funding to accomplish the goals of the program, and provided further, that the department shall report to the joint committee on health care and the house and senate committees on ways and means on the status of the program not later than June 30, 2005 ..... \$300,000

4516-0263 The department of public health may expend an amount not to exceed \$1,486,551 in revenues from various blood lead testing fees collected from insurers and individuals, for the purpose of conducting such tests; provided, that notwithstanding any general or special law to the contrary, for the purpose of accommodating timing discrepancies between the receipt of retained revenues and related expenditures, the department may incur expenses and the comptroller may certify for payment amounts not to exceed the lower of this authorization or the most recent revenue estimate therefor as reported in the state accounting system ..... \$1,486,551

4516-1000 For the administration of the center for laboratory and communicable disease control, including the division of communicable venereal diseases, the division of tuberculosis control and the state laboratory institute; provided, that the department shall give priority to the analysis of samples used in prosecution of controlled substances offenses; provided further, that funds shall be expended for an eastern encephalitis testing program and for tuberculosis testing and treatment services; provided further, that no funds appropriated in this item shall be expended for administrative, space or energy expenses of the department not directly related to personnel or programs funded herein; provided further, that funds from this item may be expended for the purchase of equipment for the drug laboratory at the state laboratory institute; provided further, that not less than \$240,000 shall be expended for the maintenance of the statewide rabies control program coordinated by the department of public health providing assistance to cities, towns and the public, and for the interagency collaboration through the rabies advisory committee, the 24-hour epidemiological and clinical consultation for rabies exposures, the rapid laboratory diagnostic services and for the continuation of the raccoon rabies vaccine

	field trial on Cape Cod operated through a contract with Tufts University School of Veterinary Medicine in collaboration with the federal Centers for Disease Control and Prevention; and provided further, that funds from this item may be expended for the purpose of an interagency service agreement with the University of Massachusetts Medical School for the department's share of the cost of occupancy, including the cost of facility support personnel, for the state laboratory institute . . . . .	\$9,701,774
4516-1022	The department may expend an amount not to exceed \$300,000 generated by fees collected from insurers for tuberculosis tests performed at the state lab; provided, that revenues collected may be used to supplement the costs of the state lab; and provided further, that for the purpose of accommodating discrepancies between the receipt of retained revenues and related expenditures, the department may incur expenses and the comptroller may certify for payment amounts not to exceed the lower of this authorization or the most recent revenue estimate as reported in the state accounting system . . . .	\$300,000
4518-0200	The department may expend an amount not to exceed \$261,687 generated by fees collected from the following services provided at the registry of vital records and statistics: amendments of vital records, all requests for vital records not issued in person at the registry and research requests performed by registry staff at the registry; provided, that revenues so collected may be used for all program costs, including the compensation of employees; and provided further, that for the purpose of accommodating discrepancies between the receipt of retained revenues and related expenditures, the department may incur expenses and the comptroller may certify for payment amounts not to exceed the lower of this authorization or the most recent revenue estimate as reported in the state accounting system . . . . .	\$261,687
4530-9000	For teenage pregnancy prevention services; provided, that no funds shall be expended in the AA subsidiary for any personnel-related costs; provided further, that applications for such funds shall be administered through the department upon receipt and approval of coordinated community service plans to be evaluated in accordance with guidelines issued by the department; provided further, that portions of the grants may	

	be used for state agency purchases of designated services identified by said community service plans; and provided further, that \$450,000 shall be expended on those communities with the highest teen birth rates, including Holyoke, Chelsea, Lawrence, Springfield, Lowell, Lynn and New Bedford; provided further, that \$100,000 shall be expended for teen pregnancy prevention services in the town of Orange; provided further, that not less than \$15,000 shall be expended on Girls, Inc. in the city of Lynn; provided further, that not less than \$150,000 shall be expended for the Berkshire Coalition to Prevent Teen Pregnancy program in Berkshire County; and provided further, that not less than \$250,000 shall be expended for the abstinence-based teen pregnancy prevention programs in the cities of North Adams and Pittsfield .....	\$990,000
4570-1500	For an early breast cancer detection program, mammographies for the uninsured, and a breast cancer detection public awareness program; provided, that no funds shall be expended in the AA subsidiary for any personnel-related costs .....	\$3,029,488
4580-1000	For the universal immunization program and the purchase and distribution of the pneumococcal conjugate vaccine; provided, that no funds shall be expended in the AA subsidiary for any personnel-related costs; and provided further, that no funds appropriated in this item shall be expended for administrative or energy expenses of the department not directly related to programs funded herein .....	\$25,052,068
4590-0250	For school health services and school-based health centers in public and non-public schools; provided, that no funds shall be expended in the AA subsidiary for any personnel-related costs; provided further, that services shall include but not be limited to: (1) strengthening the infrastructure of school health services in the areas of personnel and policy development, programming, and interdisciplinary collaboration; (2) developing linkages between school health services programs and community health providers, and (3) incorporating health education programs, including tobacco prevention and cessation activities in school curricula and in the provision of school based health services and (4) incorporating obesity prevention programs, including nutrition and wellness programs in school curricula to address	

	the nutrition and lifestyle habits needed for healthy development; provided further, that not more than \$250,000 shall be expended for the governor's commission on gay and lesbian youth; provided further, that \$99,000 shall be expended to the H.E.L.P. Program for black males health; provided further, that not less than \$12,000,000 shall be expended for school nurses and school based health centers; provided further, that not less than \$200,000 shall be expended for Berkshire Area Health Education Center, Inc. for support and implementation of model community coalitions and community capacity building activities; and provided further, that said services shall meet standards and eligibility guidelines established by the department of public health in consultation with the department of education . . . . .	\$14,002,966
4590-0300	For smoking prevention and cessation programs; provided, that no funds shall be expended in the AA subsidiary for any personnel-related costs . . . . .	\$3,750,000
4590-0301	The department of public health may expend an amount not to exceed \$6,000,000 generated from revenues received from the collection of federal financial participation for the school health services program; provided, that the revenue shall be directed toward additional resources for the school health services program . . . . .	\$6,000,000
4590-0912	The department may expend an amount not to exceed \$13,928,310 from reimbursements collected for western Massachusetts hospital services, subject to the approval of the commissioner of public health; provided, that such revenues may be expended for the purpose of hospital-related costs, including personnel, capital expenditures, DD subsidiary chargebacks and motor vehicle replacement; provided further, that all revenues expended shall be pursuant to schedules submitted to the secretary of administration and finance and the house and senate committees on ways and means; provided further, that notwithstanding any general or special law to the contrary, the western Massachusetts hospital shall be eligible to receive and retain full reimbursement from the medical assistance program of the division of medical assistance; provided further, that notwithstanding any general or special law to the contrary, the western Massachusetts hospital shall reimburse the General Fund for a portion of employee benefit expenses, according to a schedule submitted	

by the commissioner of public health and approved by the secretary for administration and finance; provided further, that such reimbursement shall not exceed 10 per cent of total personnel costs for the hospital; provided further, that for the purpose of accommodating discrepancies between the receipt of retained revenues and related expenditures, the department may incur expenses and the comptroller may certify for payment amounts not to exceed the lower of this authorization or the most recent revenue estimate as reported in the state accounting system; and provided further, that no funds appropriated herein shall be expended for administrative, space or energy expenses of the department not directly related to personnel or programs funded herein . . . . . \$13,928,310

4590-0913 For the department of public health Lemuel Shattuck hospital, for the purposes of funding expenses for services provided to inmates of county correctional facilities which have privatized medical care; provided, that said department may expend an amount not to exceed \$500,000 in revenues collected from private medical vendors; and provided further, that for the purpose of accommodating discrepancies between the receipt of retained revenues and related expenditures, the department may incur expenses and the comptroller may certify for payment amounts not to exceed the lower of this authorization or the most recent revenue estimate as reported in the state accounting system . . . . . \$500,000

4590-0915 For the maintenance and operation of Tewksbury state hospital, Massachusetts hospital school, Lemuel Shattuck hospital, and for the hospital bureau, including the consolidated pharmacy unit; provided, that all revenue generated by the hospitals shall be credited to the General Fund; provided further, that no funds appropriated herein shall be expended for administrative, space or energy expenses of the department not directly related to personnel or programs funded in this item; provided further, that Tewksbury state hospital shall not be used to house county, state, or other prisoners; provided further, that the department shall take no action to reduce or realign the client population and services at Tewksbury hospital unless such action results in alternative service delivery in an appropriate and cost-effective method of care; provided further, that staffing configurations at Tewksbury

hospital shall be consistent with the client population and service realignment; provided further, that Tewksbury State Hospital shall provide \$30,000 of given funds for chaplain services; and provided further, that reimbursements received for medical services provided at the Lemuel Shattuck hospital to inmates of county correctional facilities not managed by private health care vendors shall be credited to item 4590-0903 of section 2B ..... \$112,476,305

**OFFICE OF CHILDREN, YOUTH AND FAMILY SERVICES.**  
*Department of Social Services.*

- 4800-0015 For central and area office administration; provided, that the associated expenses of employees whose AA subsidiary costs are paid from item 4800-1100 shall be paid from this item; provided further, that no funds shall be expended from this item for the compensation of unit 8 employees; provided further, that an area office shall be maintained in the Beverly area; provided further, that the department shall not place a child or adolescent referred by or discharged from the care of the department of mental health until the latter department forwards an assessment and recommendation as to whether the child or adolescent may be appropriately placed in foster care or, if due to severe emotional disturbance, is more appropriate for group care; provided further, that the department, in consultation with the department of mental health, shall establish guidelines to assist the latter department in making such assessments and recommendations; provided further, that unless otherwise authorized, all funds including federal reimbursements received by the department shall be credited to the General Fund; and provided further, that not less than \$900,000 shall be expended for the continuation of auto expense reimbursement programs for social workers in the department of social services ..... \$66,143,185
- 4800-0025 For foster care review services ..... \$2,643,900
- 4800-0036 For a sexual abuse intervention network program to be administered in conjunction with the district attorneys; provided, that each district attorney shall receive not less than the amount it received in the previous fiscal year for the sexual abuse intervention program ..... \$701,198
- 4800-0038 For stabilization, unification, reunification, permanency, adoption, guardianship, and foster care services provided by

the department of social services; provided, that services funded through this item shall include shelter services, substance abuse treatment, family reunification networks, young parent programs, parent aides, education and counseling services, family preservation services, foster care, adoption and guardianship subsidies, tiered reimbursements used to promote the foster care placement of children with special medical and social needs, assessment of the appropriateness of adoption for children in the care of the department for more than 12 months, protective services provided by partnership agencies, targeted recruitment and retention of foster families, respite care services, post-adoption services, support services for foster, kinship and adoptive families and juvenile firesetter programs; provided further, that any child who would have been eligible for a clothing benefit under regulations in place on January 1, 2004 shall receive a clothing benefit in fiscal year 2005; provided further, that not less than \$500,000 shall be expended on the recruitment and retention of foster parents; provided further, that not less than \$5,000,000 of the funds appropriated herein shall be expended to increase daily rates paid to foster care, adoptive and guardianship families to increase said rates to the level recommended by the United States Department of Agriculture; provided further, that the commissioner of the department of social services shall file a report with the house and senate committees on ways and means no later than September 1, 2004 on the implementation of said rate increase, the amount the rates will be adjusted by service type and age group, and any other information said commissioner deems necessary; provided further, that the department shall report monthly to the house and senate committees on ways and means on the number of clients served, the cost per unit of service and any available information on the outcome of services provided for each program funded from this item; provided further, that service providers shall provide the department with all information necessary to allow the completion of these reports; provided further, that not later than February 17 of the current fiscal year the department shall provide to the house and senate committees on ways and means a recommendation on whether or not to discontinue any program, including earmarked programs, whose cost per

unit of service or service outcomes do not fall within a reasonable standard; provided further, that not less than \$348,850 shall be expended for Latinas y Ninos and Casa Esperanza; provided further, that not less than \$300,000 shall be expended for Summerhill House in Norwood; provided further, that not less than \$298,000 shall be expended for alternative schools for students aged 14 to 16, inclusive, who are placed before the court on child in need of services petitions in region 6; provided further, that not less than \$295,000 shall be expended for Massachusetts Families for Kids; provided further, that not less than \$257,000 shall be expended for a contract for an integrated family services team in region 6; provided further, that not less than \$250,000 shall be expended for the Laboure Center in South Boston; provided further, that not less than \$200,000 shall be expended for a statewide contract with Northeastern University for a violence prevention and conflict resolution program; provided further, that not less than \$200,000 shall be expended to support the family center component of the Greater Lowell Family Resource Center; provided further, that not less than \$150,000 shall be expended in region 1 for a community-based family unification counseling program to prevent juvenile delinquency; provided further, that not less than \$150,000 shall be expended for a contract with Julie's Family Learning program in the South Boston section of the city of Boston; provided further, that not less than \$140,000 shall be expended for the Comprehensive School Age Parenting Program, Inc. for expansion of a year-round school-based program in Boston high schools and middle schools for pregnant teens, young mothers and fathers and other youth at high-risk for school dropout; provided further, that not less than \$130,000 shall be expended for the Children's Cove Cape and Islands Child Advocacy Center; provided further, that not less than \$104,123 shall be provided for the school-age parenting project at Framingham High School; provided further, that not less than \$100,000 shall be expended for the operation of the Healthy Families program; provided further, that not less than \$99,000 shall be expended on a juvenile firesetters program; provided further, that not less than \$50,000 shall be expended for the purpose of providing case management services for the Amity Transitional

Housing program in the city of Lynn; provided further, that not less than \$35,000 shall be expended by the Framingham office of the Department of Social Services for the Metrowest Campership program operated by the Ashland youth advisory board in partnership with said department; provided further, that not less than \$30,000 shall be expended for a contract with Big Brothers and Sisters of Cape Cod and the Islands; provided further, that not less than \$20,000 shall be expended for the Massachusetts Association of Portuguese Speakers in Cambridge; provided further, that not less than \$20,000 shall be expended for the Haitian Coalition of Somerville; provided further, that not less than \$20,000 shall be expended for the Concilio Hispano in Somerville; and provided further, that not less than \$15,000 shall be expended for a contract with child and family services of Cape Cod for the court diversion program; ..... \$261,626,384

4800-0041 For group care services; provided, that funds may be expended from this item to provide intensive community based services to children who would otherwise be placed in residential settings; provided further, that the department shall form area review teams that shall evaluate the feasibility of maintaining the child in the community in this manner wherever possible before recommending placement in a residential setting; provided further, that the department shall provide quarterly reports detailing the number of children diverted from residential settings, the programs in which they were placed, the associated cost savings from the diversion and any other measurements that would help assess the success of these programs in promoting the health and well-being of children; and provided further, that the department shall maintain a managed care network for the Commonworks program .... \$217,070,016

4800-0091 The department of social services may expend revenue from federal reimbursements received under Title IV-E of the Social Security Act during fiscal year 2005 for the purposes of developing a training institute for professional development of social workers at the department of social services, with the University of Massachusetts Medical School and Salem State College; provided, that for the purposes off accommodating discrepancies between the receipt of retained revenues and related expenditures, the department may incur

	expenses and the comptroller may certify for payment amounts not to exceed the lower of this authorization or the most recent revenue estimate as reported in the state accounting system; provided further, that notwithstanding section 1 or any other general or special law to the contrary, federal reimbursements received in excess of \$3,000,000 shall be credited to the General Fund; and provided further, that no funds shall be expended from this item for any information technology purchases, lease-purchases or the Family-Net System in fiscal year 2005 .....	\$3,000,000
4800-0151 For	a program to provide alternative overnight nonsecure placements for status offenders and nonviolent delinquent youths up to the age of 17 in order to prevent the inappropriate use of juvenile cells in police stations for such offenders, in compliance with the federal Juvenile Justice and Delinquency Prevention Act of 1974; provided, that the programs which provide such alternative nonsecure placements shall collaborate with the appropriate county sheriff's office to provide referrals of those offenders and delinquent youths to any programs within the sheriff's office designed to positively influence youths or reduce, if not altogether eliminate, juvenile crime .....	\$307,127
4800-1100 For	the AA subsidiary costs of the department's social workers; provided, that funds shall be directed toward mitigating social worker caseloads in those area offices furthest above the statewide weighted caseload standard and toward achieving a social worker caseload ratio of 18 to 1 statewide; provided further, that the department shall report monthly to the house and senate committees on ways and means on the current social worker caseloads by type of case and level of social worker assigned to cases, the caseload ratio of each social worker with a caseload ratio in excess of 18 to 1, the office in which each of the social workers works and the total number of social workers in excess of the 18 to 1 ratio by region; provided further, that only employees of bargaining unit 8 as identified in the Massachusetts personnel administrative reporting and information system shall be paid from this item; and provided further, that any other payroll or administrative expenses associated with the management or support of such employees shall be paid from item 4800-0015 .....	\$133,388,750

**4800-1400** For shelters and support services for people at risk of domestic violence; provided, that the department shall pursue the establishment of public-private partnership agreements established for family stabilization services funded from sources other than the commonwealth; provided further, that services shall include supervised visitation programs, certified batterer intervention programs for indigent batterers and their families, and scattered site transitional housing programs, including programs to assist victims of domestic violence in finding and maintaining permanent housing; provided further, that participants in battered women's programs shall be provided with information regarding local transitional housing resources; provided further, that funding shall be made available to enhance counseling services for children who have witnessed domestic violence; provided further, that funding shall be made available for emergency shelters for substance abusing battered women; provided further, that funding shall be made available for a statewide domestic violence hotline; provided further, that procurement of services for immigrant and refugee victims shall be coordinated with the department of public health; provided further, that not less than \$200,000 shall be expended for the women's shelter operated by SMOC of Massachusetts at the People in Peril shelter in the city of Worcester; provided further, that not less than \$90,000 shall be expended for the New England Learning Center for Women in Transition Survivor's Project in Berkshire, Hampden, Franklin and Hampshire counties; provided further, that not less than \$60,000 shall be expended for the Planned Learning Achievement for Youth program in Amherst in collaboration with the department of education through an interagency service agreement; provided further, that not less than \$50,000 shall be expended for a domestic violence prevention program called Teens-At-Risk, operated by Portal of Hope for the communities of Everett, Lynn, Malden and Medford; provided further, that not less than \$50,000 shall be made available for domestic violence education and awareness in faith-based and community-based organizations; provided further, that not less than \$50,000 shall be expended for the On the Rise shelter for homeless women in the city of Cambridge; provided further, that not less than \$15,000 shall

be expended for the Words not Weapons mentoring project in Saugus; provided further, that not less than \$10,000 shall be expended for the Melrose Alliance Against Violence; provided further, that domestic violence prevention specialists shall be funded from this item; and provided further, that not less than \$10,000 shall be expended for the domestic abuse response team which serves Ipswich District Court. . . . . \$19,669,292

**OFFICE OF HEALTH SERVICES.**

*Department of Mental Health.*

5011-0100 For the operation of the department; provided, that the department shall not refer or discharge a child or adolescent to the custody or care of the department of social services until the department of mental health forwards its assessment and recommendation as to whether the child or adolescent is appropriate for foster care or, if due to severe emotional disturbance, is more appropriate for group care . . . . . \$35,376,100

5042-5000 For child and adolescent services, including the costs of psychiatric and related services provided to children and adolescents, determined to be medically ready for discharge from acute hospital units or mental health facilities and who are experiencing unnecessary delays in being discharged due to the lack of more appropriate settings; provided, that for the purpose of funding those services, the commissioner of mental health may allocate funds from the amount appropriated herein to other departments within the executive office of health and human services; provided further, that the department shall submit a report to the house and senate committees on ways and means not later than January 15, 2005 on the results of the collaboration between the department and the other departments within the executive office of health and human services; provided further, that the report shall detail the current status of the implementation of clinically appropriate service models for that population of children and adolescents, remaining disparities in the service system which require children and adolescents to be served in unnecessarily restrictive or otherwise clinically inappropriate settings and changes during fiscal years 2003 and 2004 in the clinical acuity of children and adolescents; provided further, that not less than \$2,500,000 shall be expended for the Child

Psychiatric Access project; and provided further, that not less than \$1,800,000 shall be expended from this item in fiscal year 2005 to ensure that a licensed practitioner or a licensed nurse administers medication to children and adolescents whose mental health services are delivered by public or private providers of such services ..... \$68,573,272

5046-0000 For adult mental health and support services; provided, that the department shall allocate funds in an amount not to exceed \$5,000,000 from item 5095-0015, to this item, as necessary, pursuant to allocation plans submitted to the house and senate committees on ways and means 30 days prior to any such transfer, for residential and day services for clients formerly receiving care at department facilities; provided further, that funds spend from this item for the purposes of research in fiscal year 2005 shall not be less than the amount spent in fiscal year 2004 for such purposes; and provided further, that the department shall report to the house and senate committees on ways and means on the distribution of funds per adult and child planning population and the types of services received in each region for fiscal year 2005 not later than February 1, 2005 ..... \$274,355,702

5046-2000 For homelessness services; provided, that not less than \$90,000 shall be expended for the provision of health services to the homeless and uninsured by Primary Care and Mental Health, Inc. located in the city of Lynn ..... \$22,182,363

5046-4000 The department of mental health may expend revenues collected up to a maximum of \$125,000 from occupancy fees charged to the tenants in the creative housing option in community environments, the CHOICE program authorized by chapter 167 of the acts of 1987; provided, that all such fees collected shall be expended for the routine maintenance and repair of facilities in the CHOICE program including the costs of personnel ..... \$125,000

5047-0001 For emergency service programs and acute inpatient mental health care services; provided, that the department shall continue an interagency service agreement with the division of medical assistance for the purchase of said services and for such other services as said agreement may provide including, but not limited to, acute inpatient care and diversionary services; provided further, that the most recent savings projection from the implementation of said agreement may be

expended for community services in the MM subsidiary of this item; provided further, that said emergency service programs shall take all reasonable steps to identify and invoice the third party insurer of all persons serviced by said programs; provided further, that the department shall report to the house and senate committees on ways and means not later than January 30, 2005, on the utilization of said emergency programs and acute inpatient beds by clients of the department during each month of fiscal year 2004; provided further, that said report shall detail the number of clients of the department determined to be eligible for the medicaid program during fiscal year 2004; and provided further, that said report shall detail expenditures made by the division of medical assistance on behalf of clients of the department and those uninsured persons not deemed to be clients of said department from the amounts appropriated in item 5047-0001 of section 2 of chapter 26 of the acts of 2003 during fiscal year 2004 for said acute inpatient care and emergency services .....\$31,485,703

5047-0002 Notwithstanding any general or special law to the contrary, the department may expend revenues on continuing care services in the community in an amount not to exceed \$4,500,000 from increased federal reimbursements collected for services rendered in emergency programs and acute inpatient and diversionary settings; provided, that not less than an additional \$2,500,000 from the reimbursements shall be deposited in the General Fund by the close of fiscal year 2005; provided further, that upon such deposit, the secretary of administration and finance shall certify in writing to the house and senate committees on ways and means that the amount has been deposited in the General Fund; provided further, that for the purpose of accommodating discrepancies between the receipt of retained revenues and related expenditures, the department may incur expenses and the comptroller may certify for payment amounts not to exceed the lower of this authorization or the most recent revenue estimate as reported in the state accounting system; and provided further, that the department shall submit a report to the house and senate committees on ways and means not later than February 3, 2005 detailing the use of any funds encum-

	bered or expended from this item including, but not limited to, the number of clients served, the types of services purchased by region and the annualized impact of the expenditures in the subsequent fiscal year . . . . .	\$4,500,000
5055-0000	For forensic services provided by the department . . . . .	\$6,028,399
5095-0015	For the operation of adult inpatient facilities, including the community mental heath centers; provided, that in order to comply with the Olmstead decision and to enhance care within available resources to clients served by the department, the department shall take steps to consolidate or close psychiatric hospitals managed by the department and shall endeavor within available resources to discharge clients residing in the inpatient facilities to residential services in the community when the following criteria are met: 1) the client is deemed clinically suited for a more integrated setting; 2) community residential service capacity and resources available are sufficient to provide each client with an equal or improved level of service; and 3) the cost to the commonwealth of serving the client in the community is less than or equal to the cost of serving the client in inpatient care; provided further, that any client transferred to another inpatient facility as the result of a facility closure shall receive a level of care that is equal to or better than the care that had been received at the closed facility; provided further, that no action to reduce the client population of the Worcester or Westboro facilities for the sole purpose of closing the hospital shall be undertaken, and no steps shall be taken to close the institution through attrition, layoffs or any other means until a study of the hospital building plan is completed and the General Court shall have approved the closure of Worcester State Hospital and Westboro State Hospital; provided further, that no closure shall be approved by the General Court without the notification and consultation of the Westboro municipal officials; and provided further, that the department may allocate funds in an amount not to exceed \$5,000,000 from this item to item 5046-0000, as necessary, pursuant to allocation plans submitted to the house and senate committees on ways and means 30 days prior to any such transfer, for residential and day services for clients formerly receiving inpatient care at the centers and facilities . . . . .	\$151,932,242

OFFICE OF DISABILITIES AND COMMUNITY SERVICES.

*Department of Mental Retardation*

- 5911-1000 For the administration of the department of mental retardation; provided, that the department shall not charge user fees for transportation or community day services; provided further, that the department shall not charge fees for eligibility determination for services provided by the department or for applications of requests for transfer of guardianship; and provided further, that \$99,000 shall be expended for the hiring of a consultant by the majority vote of the Fernald Re-Use Committee established in section 678 of chapter 26 of the acts of 2003 for the purposes of asset assessment and re-use development proposal ..... \$13,102,349
- 5911-2000 For transportation costs associated with the adult services program; provided, that the department shall provide transportation on the basis of priority of need as determined by the department; provided further that not less than \$109,522 shall be expended from this item for the Life Focus Center in the Charlestown section of the city of Boston .... \$13,782,367
- 5920-1000 For the operation of regional and area offices of the department; provided, that the department shall submit a semi-annual report to the house and senate committees on ways and means detailing the total number of service coordinators within the department, the number of consumers served by said coordinators, and the amount of time spent per month per consumer ..... \$52,316,518
- 5920-2000 For vendor-operated community-based residential adult services, including intensive individual supports; provided, that \$9,520,000 shall be expended in annualized funding for turning 22 clients who began receiving the services in fiscal year 2004 pursuant to item 5920-5000 of section 2 of chapter 26 of the acts of 2003; provided further, that \$8,250,000 shall be expended for the fiscal year 2004 annualized cost of the settlement agreement Rolland vs. Cellucci, so-called, and \$5,000,000 shall be expended for the fiscal year 2005 cost of the settlement; provided further, that the commissioner of the department of mental retardation shall transfer funds from this item to item 5920-2010, as necessary, pursuant to an allocation plan, which shall detail by subsidiary the distribution of

said funds to be transferred and which said commissioner shall file with the house and senate committees on ways and means 15 days prior to any such transfer; provided further, that not less than \$275,000 of additional funding be provided to Advocates, Inc. for residential services provided under contract #26604660343; provided further, that not more than \$5,000,000 shall be transferred from this item in fiscal year 2005; provided further, that not less than \$50,000 shall be expended for the Advocacy Resource Center in New Bedford to provide critical family support services in the area of community-based resident education for special needs children; provided further, that an additional \$304,000 shall be expended on a contract with Work, Inc. for enhance or expanded services to clients; provided further, that not less than \$500,000 shall be expended for Best Buddies Massachusetts ; and provided further, that not less than \$100,000 shall be allocated for Special Olympics for the purpose unified sports .....\$476,614,523

5920-2010 For state-operated community-based residential services for adults, including community-based health services for adults; provided, that the department shall maximize federal reimbursement, whenever possible under federal regulation, for the direct and indirect costs of services provided by the employees funded in this item .....\$113,269,640

5920-2020 For compliance with the terms of the Settlement Agreement, dated December 19, 2000, and entered into by the parties of Boulet v. Cellucci, Civil Action No. 99-CV-10617-DPW, filed in the United States District Court of Massachusetts in order to provide services to the clients of the department on the waiting list on July 14, 2000; provided, that notwithstanding paragraph 41 of the Settlement Agreement for Boulet, et al v. Cellucci, et al, civil action No. 99-CV-10617-DPW, United States District Court of Massachusetts, no amount appropriated in this item shall fund attorneys' fees for the above-referenced action; provided further, that the department shall issue a report to the house and senate committees on ways and means on the use of funds for services to Boulet class members no later than February 1, 2005; provided further, that the department shall submit copies of Exhibit F of the quarterly reports required by Section G of the Settlement Agreement to the house and senate committees on

	ways and means; and provided further, that any names and other identifying personal information contained in the quarterly reports shall be redacted from the reports prior to their submission to the committees on ways and means in order to preserve the confidentiality of the information . . . . .	\$70,000,000
5920-2025	For community-based day and work programs for adults and for \$2,720,000 in annualized funding for Turning 22 clients who began receiving services in fiscal year 2004 pursuant to item 5920-5000 of section 2 of chapter 26 of the acts of 2003; provided further, that not less than \$302,000 shall be expended for the life focus center in the Charlestown section of the city of Boston, including an alternative work program . .	\$109,171,278
5920-3000	For respite services and intensive family supports and for \$1,360,000 in annualized funding for Turning 22 clients who began receiving services in fiscal year 2004 pursuant to item 5920-5000 of section 2 of chapter 26 of the acts of 2003; provided, that the department shall pursue the highest rates of federal reimbursement possible for such services; and provided further, that not more than \$50,000 be expended for the Friendship Home Project in Norwell . . . . .	\$48,800,000
5920-5000	For services for clients of the department who turn 22 years of age during state fiscal year 2005; provided, that the amount appropriated herein shall not annualize to more than \$13,600,000 in fiscal year 2006; provided further, that the department shall report to the house and senate committees on ways and means not later than January 1, 2005, on the use of any funds encumbered or expended from this item including, but not limited to, the number of clients served in each region and the types of services purchased in each region; provided further, that nothing herein shall give rise to enforceable legal rights in any party or an enforceable entitlement to the services funded herein; and provided further, that nothing stated herein shall be construed as giving rise to such enforceable legal rights or such enforceable entitlement . . . . .	\$6,467,670
5930-1000	For the operation of facilities for the mentally retarded, including the maintenance and operation of the Glavin Regional Center; provided, that in order to comply with the provisions of the Olmstead decision and to enhance care within available resources to clients served by the department, the department shall take steps to consolidate or close intermittent care facilities for the mentally retarded, hereinafter "ICF/MRs",	

managed by the department and shall endeavor, within available resources, to discharge clients residing in the ICF/MRs to residential services in the community if the following criteria are met: 1) the client is deemed clinically suited for a more integrated setting; 2) community residential service capacity and resources available are sufficient to provide each client with an equal or improved level of service; and 3) the cost to the commonwealth of serving the client in the community is less than or equal to the cost of serving the client in ICF/MRs; provided further, that any client transferred to another ICF/MR as the result of a facility closure shall receive a level of care that is equal to or better than the care that had been received at the closed ICF/MR; provided further, that the department shall report to the joint committee on human services and the house and senate committees on ways and means on the progress of this initiative, including both past actions and proposed future actions; provided further, that the report shall include progress on the plan for the closure of the Fernald Developmental Center; provided further, that the report shall include: the number of clients transferred from facility care into the community, the community supports provided to clients discharged from facility care into the community and the current facility bed capacity relative to the number of clients in ICF/MRs managed by the department; provided further, the report shall also include steps being taken to help minimize increases in travel distances for family members visiting clients at ICF/MRs resulting from the transfer of clients from one ICF/MR to another; provided further, that the department shall submit the report no later than February 15, 2005; provided further, that the Fernald Development Center shall not be closed prior to October 2005 to ensure adequate community, client, and family member input into the closure planning process; provided further, that the department of mental retardation shall submit a plan regarding the closure of the Fernald State School by January 1, 2005 to the house and senate committees on ways and means; provided further, that said plan shall detail the transition of clients from said school to appropriate settings; provided further, that the plan shall include consideration for the transition of employees of said

school into community setting with their clients in order to ensure continuity of service wherever possible; provided further, that said plan shall be subject to the approval of the house and senate committees on ways and means; provided further, that the department may allocate funds from this item to items 5920-2000, 5920-2010, and 5920-2025, as necessary, pursuant to allocation plans submitted to the house and senate committees on ways and means 30 days prior to any such transfer, for residential and day services for clients formerly receiving inpatient care at ICF/MRs; and provided further, that the department shall maximize federal reimbursement, whenever possible under federal regulation, for the direct and indirect costs of services provided by the employees funded in this item . . . . .

\$160,220,259

5982-1000 The department of mental retardation may expend an amount not to exceed \$100,000 accrued through the sale of milk and other farm-related and forestry products at the Templeton Developmental Center for program costs of the center, including supplies, equipment and maintenance of the facility; provided, that notwithstanding any general or special law to the contrary and for the purpose of accommodating timing discrepancies between the receipt of retained revenues and related expenditures, the department may incur expenses and the comptroller may certify for payment amounts not to exceed the lower of this authorization or the most recent revenue estimate therefore as reported in the state accounting system . . . . .

\$100,000

**EXECUTIVE OFFICE OF TRANSPORTATION**  
*Office of the Secretary.*

6000-0100 For the office of the secretary of transportation; provided, that the office shall collaborate with the department of transitional assistance in its efforts to develop a program of transportation services for current and former recipients of the transitional aid to families with dependent children program pursuant to item 4401-1000; provided further, that the office shall submit to the joint committee on transportation and the house and senate committees on ways and means monthly reports detailing projects funded through the statewide transportation

improvement program including, but not limited to, the location of the projects, the cost of the projects, the date of advertisement of the projects, the commencement date of the projects, the projected completion date of the projects and the source of funds for the projects; provided further, that the office shall also provide the committees with quarterly reports detailing construction and reconstruction projects on town and county ways as described in paragraph (a) of clause (2) of the first paragraph of section 34 of chapter 90 of the General Laws for which municipalities are projected to seek, have filed claims or have been paid state reimbursement; provided further, that a city or town shall comply with the procedures established by the secretary to obtain the necessary information to produce the reports; provided further, that the reports shall include, but not be limited to, the cost of the projects by city or town, the source of funding of the projects by city or town and the commencement and completion dates of the projects by city or town; provided further, that the secretary of the executive office of transportation, in collaboration with the commissioner of highways, shall file a report each year with the joint committee on transportation and the house and senate committees on ways and means by June 30, 2005 and the last day of each subsequent fiscal year; provided further, that the report shall include spending in the commonwealth through the statewide road and bridge program, the Chapter 90 program, the Small Town Road Assistance Program and all other programs expending funds for road and bridge projects within the commonwealth; provided further, that the report shall detail the location of the project by city or town, a brief project description, the project cost, the expected completion date, the source of funding and any other information deemed necessary; provided further, that the office shall submit to the house and senate committees on ways and means quarterly reports detailing all personnel-related expenditures made from capital funds; provided further, that the reports shall delineate for the executive office and for each agency, board, authority or commission under its control, the amounts paid in the prior quarter as compensation for each type of position assigned to capital projects that were charged to each such funding source; provided further, that the reports shall also delineate

by funding source any other amounts paid for personnel-related costs that were charged to those funds, including payroll allocations for budgetary employees, fringe recovery and other chargebacks; provided further, that the reports shall identify the number of full time equivalent personnel classified in each position type; provided further, that the reports shall list all employees who are paid from this item and items 6010-0001, 6010-0002 and 6006-0003 who also receive payments from any capital funds; provided further, that the reports shall include for each of those employees how much money the employees receive from the items and how much money each employee receives from any capital funds; provided further, that the reports shall delineate the information for full-time employees, part-time employees and contracted personnel; provided further, that agencies within the executive office may, with the prior approval of the secretary, streamline and improve administrative operations pursuant to interdepartmental service agreements; provided further, that notwithstanding the provisions of any general or special law to the contrary, the secretary and the department of highways shall proceed on the Route I-95/I-93 (Route 128) Transportation Improvement Project including the Route I-95/I-93 interchange located in the towns of Canton, Dedham and Westwood by using the design/build method of public construction procurement and delivery; provided further, however, that the general contractor and designer selected to perform the project shall be selected through a competitive process; and provided further, that the general contractor and the designer shall be pre-qualified by the department of highways to perform the work required ..... \$199,638

Highway Fund ..... 100.0%

6000-0110 For the purpose of property management and maintenance of railroad properties owned by the executive office of transportation on behalf of the commonwealth, including the cost of personnel; provided, that the office may expend an amount not to exceed \$27,344 from the rents and fees received pursuant to section 4 of chapter 161C of the General Laws ..... \$27,344

6005-0015 For certain assistance to the regional transit authorities, including operating grants and reimbursements to increase the accessibility of transit provided to the elderly and disabled under the

mobility assistance program, the regional transit authority program, and the inter-city bus capital assistance program; provided, that the commonwealth, acting by and through the executive office for administration and finance, for the period beginning July 1, 2004 and ending June 30, 2005, may enter into contracts with the authorities; provided further, that notwithstanding section 152A of chapter 161, and section 23 of chapter 161B of the General Laws, the amount shall be at least 50 per cent and up to 75 per cent of the net cost of service of each authority incurred in fiscal year 2004 shall be paid by the commonwealth, and shall not be assessed upon the cities and towns constituting the authorities; provided further, that the share assessed upon the cities and towns shall be at least 25 per cent of the net cost of service; provided further, that in the event that 25 per cent of the net cost of service of each authority exceeds 102.5 per cent of the previous year's local assessment, excluding payments made by cities and towns for the costs of new service, for which the cities and towns have not previously been assessed, as allowed by chapter 580 of the acts of 1980, the regional transit authority shall reduce its operating expenses or increase its revenues to meet the difference; provided further, that operating expenditures of each of the regional transit authorities for fiscal year 2005 shall not exceed 102.5 per cent of its operating expenditures for fiscal year 2004; provided further, that for the purposes of this item, operating expenditures shall not include federal, private or additional municipal non-state revenue sources or any expenses arising from the provision of services required by the Americans with Disabilities Act, or new services implemented after July 1, 1999 in an amount not to exceed a total of \$3,613,905 for the 15 regional transit authorities; provided further, that the new services must have first received approval of the appropriate regional transit authority advisory board; provided further, that not less than 25 per cent of the net cost of service of the new services shall be assessed to the cities and towns of the appropriate transit authority, as detailed previously in this item; provided further, that each regional transit authority which provides the new services must file a report with the house and senate committees on ways and means and the joint

committee on transportation, detailing the total costs and revenues associated with the new service; provided further, that the cost of the new services shall not annualize to more than \$3,613,905; provided further, that not later than January 1, 2005, each of the 15 regional transit authorities shall submit to the house and senate committees on ways and means a report detailing any and all revenues collected as a result of services provided pursuant to item 4401-1000; provided further, that the executive office of transportation shall work cooperatively with the authorities and other public and private funding sources to maximize new revenues sources to expand transit services; provided further, that the authorities and the executive office of transportation shall develop processes and procedures for contracts for services with other state agencies; provided further, that the executive office of transportation and the authorities shall develop a 5-year transit plan for operational and capital objectives that the parties may measure against and plan toward and shall file the plan with the house and senate committees on way and means no later than April 1, 2005; provided further, that the executive office of transportation and the authorities shall work cooperatively to implement multi-year contracting for regional transit authority capital projects, particularly for construction projects and other multi-year commitments of the authorities; provided further, that the regional transit authorities shall implement structural, managerial and administrative reforms in order to achieve cost savings in services provided by the authorities; provided further, that the reforms shall include, but not be limited to, improved financing procedures for capital needs, approved plans for short- and long-term service, a coordinated program of mass transportation for the regional transit authorities that provides standards of service for the authorities for types of service, passenger miles, hours of service, cost of service by route and mile and passenger, non-transportation revenue and system revenue generating options included, but not limited to, fare revenue and advertising revenue, assessments on member cities and towns, net operating investment per passenger-mile ratio and service quality standards; provided further, that the program shall involve an approach to service coordinated with the Massachusetts Bay Transportation Authority and other transit

providers in order to achieve maximum efficiency of regional transit authority service routes; provided further, that all regional transit authorities shall achieve the fare and/or revenue recovery ratio of 40 per cent within 36 months from the effective date of this act; and provided further, that the Massachusetts Association of Regional Transit Authorities shall, on or before November 15, 2004, report to the joint committee on transportation and the house and senate committees on ways and means on the operations of the authorities in the first half of fiscal year 2005, and focus the report on the reforms and improvements . . . . . \$48,782,640

General Fund . . . . .	80.0%
Highway Fund . . . . .	20.0%

*Massachusetts Aeronautics Commission.*

6006-0003 For the administration of the commission, including the expenses of the commissioners . . . . . \$533,256

*Department of Highways.*

6010-0001 For personnel costs of the department of highways, for certain administrative and engineering expenses and equipment of the highways commission, the office of the commissioner of highways, the division of administrative services, highway engineering, highway maintenance, highway construction, the outdoor advertising board, district and other highway activity offices, materials, supplies, fleet maintenance and equipment, general maintenance and equipment and the maintenance and operation of state highways and bridges, and for the costs associated with the global positioning system program; provided, that no expenditures shall be made from the AA subsidiary; provided further, that notwithstanding any general or special law to the contrary, the department may expend from capital authorizations amounts necessary to cover operational costs of the department in excess of amounts appropriated in this item to ensure that adequate staffing levels are maintained to support the services and programs offered by the department; provided further, that the department shall develop a plan that, by June 30, 2007, shall phase into the budgetary appropriation all personnel costs transferred to capital authorizations since June 30, 2002; provided further,

that such plan be reported to the house and senate committees on ways and means by December 31, 2004; provided further, that the department shall file quarterly reports with the house and senate committees on ways and means detailing all amounts expended on bond-funded capital projects under the jurisdiction of the department, and for all administrative and personnel expenses of the department charged to such bonds; provided further, that such reports shall be filed not later than 30 days after the end of each quarter; provided further, that notwithstanding any administrative bulletin or general or special law to the contrary, the department shall not pay any fees charged for the leasing or maintenance of vehicles to the division of operational services; provided further, that the department shall not be subject to section 36A of chapter 30 of the General Laws and section 22 of chapter 7 of the General Laws, but shall submit to the secretary of transportation for approval requests to repair vehicles costing in excess of the limit set forth in said section 22 of said chapter 7; provided further, that the costs of routine highway maintenance provided by private and union workers in contract areas, 1A, 1B, 2A, 2B, 3A, 3B, 3C, 4A, 4B, 4C, 4D, 5A, 5B, and 5C and for costs associated with police services and overtime within the areas shall be paid from this item; provided further, that \$90,000 shall be made available for all contractual contingency costs associated with highway maintenance in said areas; provided further, that the department shall submit quarterly reports to the house and senate committees on ways and means detailing for each contract area expenditures for the costs of contractual contingency fees, personnel, police services, overtime, materials, and vehicle repair; provided further, that the department shall expend \$100,000 on a traffic signal in Worcester on Route 12; provided further, that \$50,000 shall be expended for the cost of the installation of sidewalks in Worcester on Massasoit Road from Benson Street to the Our Lady of Loreto Church Property; provided further, that \$50,000 be expended for the installation of a sidewalk behind the Roosevelt Elementary School in Worcester; provided further, that said department shall fully perform storm water management construction for the protection of Webster Lake; provided further,

funds shall be expended to study the flow of traffic along Commonwealth Avenue in Allston-Brighton to determine the impact of regional traffic accessing downtown Boston; provided further, that funds shall be expended to mill and pave Route 20A in the city of Springfield and that said milling and paving shall be completed by June 30, 2005; provided further, that the Secretary is hereby authorized and directed to expend an amount necessary to complete the final phase, within the fiscal year, of the reconstruction and enhancement of that portion of the state road known as "Somerville Avenue" in Somerville; provided further, that funds shall be expended for the design and construction of traffic lights at the intersection of South Street and Salem Street in the Town of Tewksbury and said project shall be completed by June 30, 2005; provided further, that said department shall work in conjunction with the Division of Capital Asset Management to study the closure of the rest stop area on Route 2 west in the town of Harvard and shall submit the findings of said study to the joint committee on transportation by December 15, 2004; provided further, that funds shall be expended for Berkshire Hills Regional School District for the construction of a traffic signal and necessary road improvements at the intersection of Monument Valley Road and Route 7 in the Town of Great Barrington; provided further, that funds shall be expended for traffic signalization on Route 12 in the city of Worcester; provided further, that funds shall be expended to fund the construction of improvements to route 126 in the town of Medway; provided further, that said department shall conduct a noise reduction study along Route 3 South in Kingston no later than December 31, 2004 and shall submit its finding to the joint committee on transportation and the house and senate committees on ways and means no later than June 30, 2005; provided, further, that the department shall maintain the motorist emergency call system installed on interstate highway route 91, interstate highway route 93, interstate highway route 195, and interstate highway route 495, in an operational condition for use in emergencies by the public; provided further that said department is directed to close route 60 between state highway route 2 in the town of Arlington and Winthrop Circle, in the city of Medford to commercial traffic between

the hours of 12 P.M. and 6 A.M effective September 1, 2004, unless the said department declares it a public necessity that said roadway should be open to commercial traffic; provided that funds shall be expended to conduct a noise study along Route 290 in the town of Northborough; provided further, that said department shall expend funds for the purpose of repair and maintenance of the Mount Vernon Street Bridge on Washington Street in the town of Winchester; provided further, that said department shall construct sound barriers in the towns of Billerica and Lexington as follows: in the town of Billerica on the northerly side of Route 3 from a point 500 yards south of the Eliot Street bridge and extending 700 yards north of the Eliot Street bridge on the northerly side of Route 3; provided, further, that said barriers in the town of Lexington shall be constructed from the off-ramp from Route 3 accessing Route 128 south and extending to the Grove Street Bridge; provided further, that the department shall include the proposed intersection improvements of the Route 1A/Main Street- Winter Street-Jean Road intersection in the town of Walpole on the Transportation Improvement Program project list covering fiscal years 2003-2007 and shall commence said improvements during fiscal year 2005; provided, further, that funds shall be expended for the construction of sound barriers in the town of Chelmsford as follows: designated Area Number 21, Waterford Place in Chelmsford, designated Area 1, Ledgewood/Lido Land in Bedford, as defined by HMMH Report Number 298280 as prepared for said document; and provided further, that the Massachusetts Highway Department allow the town of Arlington access to the land between route 2 and Spy Pond for the purposes of establishing a pumping station at Spy Pond ..... \$14,857,993  
Highway Fund ..... 100.0%

6010-0002 For AA subsidiary payroll costs of item 6010-0001; provided, that the funds appropriated in this item shall be the only source of funding for all overtime expenses associated with the department's snow and ice control efforts ..... \$14,253,357  
Highway Fund ..... 100.0%

*Board of Library Commissioners.*

7000-6503	For a handicap accessibility project in Holbrook to enhance educational opportunities for disabled citizens . . . . .	\$150,000
7000-9101	For the operation of the board of library commissioners . . . . .	\$891,182
7000-9401	For state aid to regional public libraries; provided, that the board of library commissioners may provide quarterly advances of funds for purposes authorized by clauses (1) and (2) of section 19C of chapter 78 of the General Laws, as it deems proper, to regional public library systems throughout each fiscal year, in compliance with the office of the comptroller's regulations on state grants, 815 CMR 2.00; provided further, that notwithstanding said section 19C of said chapter 78 or any other general or special law to the contrary, the Boston Public Library shall, as the library of last recourse for reference and research services for the commonwealth, be paid from this item an amount equal to \$1.06 per resident in the commonwealth; and provided further, that notwithstanding any general or special law to the contrary, in calculating the fiscal year 2005 distribution of funds appropriated herein, the board of library commissioners shall employ population figures used to calculate the fiscal year 2004 distribution . . . .	\$14,980,361
7000-9402	For the talking book library at the Worcester public library . . . . .	\$318,777
7000-9406	For the Braille and talking book library at Watertown, including the operation of the machine lending agency; provided, that not less than \$50,000 shall be expended for the National Federation of the Blind Newsline Program . . . . .	\$1,678,550
7000-9501	For state aid to public libraries; provided, that notwithstanding any general or special law to the contrary, no city or town shall receive any money under this item in any year when the appropriation of the city or town for free public library services is below an amount equal to 102.5 per cent of the average of the appropriations for free public library service for the three years immediately preceding; provided further, that notwithstanding any general or special law to the contrary, the board of library commissioners may grant no more than 55 additional waivers in excess of the waiver limit set forth in the second paragraph of section 19A of chapter 78 of the General Laws in fiscal year 2005 for a period of not more than one year; provided further, that notwithstanding any general or special law to the contrary, of the amount by which	

this item exceeds the amount appropriated in chapter 194 of the acts of 1998, funds shall be distributed under the guidelines of the municipal equalization grant program and under the guidelines for the library incentive grant program; and provided further, that any payment made under this item shall be deposited with the treasurer of the city or town and held as a separate account and shall be expended by the public library of such city or town without appropriation, notwithstanding any general or special law to the contrary . . . . . \$8,539,844

7000-9506 For the technology and automated resource sharing networks . . . . . \$541,811

**EXECUTIVE OFFICE OF ECONOMIC DEVELOPMENT.**

*Office of the Secretary.*

7002-0010 For the office of the secretary of the executive office of economic development; provided, that agencies within the executive office may, with the prior approval of the secretary, streamline and improve administrative operations pursuant to interdepartmental service agreements . . . . . \$252,676

*Department of Labor.*

7002-0200 For the operation of the division of occupational safety; provided, that the division may employ staff not subject to chapter 31 of the general laws for a program to evaluate asbestos levels in public schools and other public buildings; and provided further, that funds shall be expended from this item for the GG subsidiary costs of the board of conciliation and arbitration, the division of apprentice training, the labor relations commission and the division of occupational safety . . . . . \$2,368,177

7002-0201 The division of occupational safety may expend an amount not to exceed \$152,850 received from fees authorized pursuant section 3A of chapter 23 of the General Laws . . . . . \$152,850

7002-0500 For the operation and administrative expenses of the division of industrial accidents; provided, that not less than \$800,000 shall be expended for occupational safety training grants; provided further, that said division shall submit a report not later than February 1, 2005 to the house and senate committees on ways and means detailing the scope, objective and results of grant recipients' safety training program; provided further, that the General Fund shall be reimbursed the amount appropriated in this item and for associated indirect and direct

fringe benefit costs from assessments levied pursuant to section 65 of chapter 152 of the General Laws; provided further, that the division shall assign a judge to hear cases in the county of Berkshire not less than once a month; and provided further, that the treasurer may release to the division, subject to adequate and appropriate documentation of the need, to the workers' compensation advisory council and the affirmative vote of at least 7 members of the workers' compensation advisory council, sufficient funds from the special reserve account established in clause (c) of subsection (4) of said section 65 of said chapter 152 to pay for expenses to continue expansion of the conversion of the agency's computer system from unify to oracle . . . . . \$19,335,439

7002-0600 For the operation of the labor relations commission . . . . . \$832,700

7002-0700 For the operation of the joint labor management committee for municipal police and fire . . . . . \$443,344

7002-0800 For the operation of the board of conciliation and arbitration . . . . . \$514,978

*Department of Workforce Development.*

7002-0100 For the administration of the department of workforce development, including the divisions under the control of the department; provided, that on January 4, 2005 the director of the department of workforce development shall submit to the house and senate committees on ways and means a comprehensive report describing in detail the job training services, including labor exchange, skills training and remedial education services related thereto which have been provided during the course of the fiscal year in the commonwealth, describing the systems for delivery of such services, describing the costs of such services and the sources of revenue for such services . . . . . \$150,000

7002-0101 For the operation of the apprentice training program; provided, that no position in the apprentice training division shall be subject to chapter 31 of the General Laws; provided further, that notwithstanding any general or special law to the contrary, the deputy director shall require each apprentice entering into a written agreement to submit an application to the division for an apprentice identification card; provided further, that the application shall be accompanied by a fee of \$35 and paid by the apprentice or the program sponsor, to-

gether with photographic prints as required by the deputy director; provided further, that the first \$125,000 of the fees collected by the division for this identification card program shall be deposited into the General Fund; provided further, that the second \$125,000 of said fees shall be deposited into the special trust account created to fund and maintain the identification card program pursuant to chapter 357 of the acts of 2002 and the remainder of all fees collected shall be deposited into the General Fund; provided further that, an apprentice identification card shall contain the photograph of the apprentice, the apprentice registration number or such other number as the deputy director requires, the name and business address of the appropriate apprenticeship committee or single employee sponsor, the steps of progression and related dates applicable to the apprentice, and the projected date on which the apprentice is projected to complete the apprenticeship; provided further, that as a condition of his apprenticeship the apprentice shall keep the apprentice identification card on his person during his hours of employment during the apprenticeship; provided further, that any apprentice performing work on a project or projects subject to this item shall maintain in his possession an apprentice identification card; provided further, that any apprentice who is determined by the deputy director to be un-enrolled in related classroom instruction classes shall be paid at the journey level rate for the duration of the public works project or projects; and provided further, that for every week in which an apprentice is employed by a contractor, subcontractor, or public body subject to this section, a photocopy of said apprentice's apprentice identification card, shall be attached to the records submitted under this item . . . . . \$420,000

7003-0604 For the career ladder grant program in long-term care established pursuant to section 410 of chapter 159 of the acts of 2000; provided, that grants shall be available for certified nurses' aides, home health aides, homemakers and other entry level workers in long-term care; provided further, that the grants may include training for English for speakers of other languages and other language and adult basic education programs to improve quality of care and improve direct care worker access to and participation in career ladder training;

provided further, that the length of such grants shall not exceed a period of 3 years; provided further, that the Commonwealth Corporation shall submit quarterly reports to the house and senate committees on ways and means on said grant program including, but not limited to, the number of grants awarded, the amount of each grant, a description of the career ladder programs, changes in care-giving and workplace practices that have occurred and their impact on quality of care and worker retention and the certificates, degrees or professional status attained by each participating employee; provided further, that the administrative and program management costs for the implementation of said grant program shall not exceed 4 per cent of the amount appropriated in this item; and provided further, that each grant may include funding for technical assistance and evaluation . . \$1,000,000

7003-0701 For grants and technical assistance administered by the department of workforce development, pursuant to section 2RR of chapter 29 of the General Laws and for the cost of collecting the assessment established in section 14L of chapter 151A of the General Laws; provided, that the department of workforce development shall provide a report on the grants and technical assistance programs authorized herein detailing the firms receiving grants, by number of employees, revenues, and industry, to the house and senate ways & means committee by January 15, 2005; provided further, that said report shall include specific measures of how grant recipients were able to increase job growth, retention rates, and productivity as a result of the grants; provided further, that the report shall include measures of whether training participants received promotions and increased incomes as a result of training; provided further, that not more than \$3,000,000 shall be expended for direct technical assistance pursuant to clause (2) of subsection (b) of said section 2RR of said chapter 29; provided further, that of said \$3,000,000, not less than \$75,000 shall be provided to the Workforce Investment Board Association to support the activities of business, labor, education, youth councils, and community members in leading regional workforce development systems; provided further, that of said \$3,000,000, each of the 16 workforce investment boards shall receive \$75,000 in fiscal year 2005; provided further, that of said \$3,000,000,

each of said boards shall receive \$20,000 for youth councils; and provided further, that the director shall demonstrate that each dollar expended generates not less than \$5 in private investment in job training ..... \$21,000,000  
Workforce Training Fund ..... 100.0%

7003-0702 For grants to be administered by the department of workforce development; provided that not less than \$250,000 shall be expended on the Acre Urban Revitalization project in the city of Lowell; provided further, that not less than \$50,000 shall be expended for the Allston-Brighton vocational adjustment center for the continued operation of a job training and placement center; provided further, that not less than \$8,000 shall be provided for the Bonnie Brae Camp in the city of Gardner; provided further; that not less than \$250,000 shall be expended for the center for women and enterprise; provided further, that not less than \$100,000 shall be expended for Centro Latino de Chelsea to provide workforce training, educational services and other transitional services in the city of Chelsea; provided further, that not less than \$400,000 shall be expended on the Commonwealth Corporation; provided further, that not less than \$127,000 shall be expended for the employee involvement and ownership program; provided further, that not less than \$105,000 shall be made available to the E-Team Machinist Program in the city of Lynn; provided further; that not less than \$300,000 shall be expended for a hospital skill training program operated by the Commonwealth Corporation; provided further, that not less than \$135,000 shall be expended for incumbent worker coordinators at the Massachusetts AFL-CIO; provided further, that not less than \$250,000 shall be expended on the Jackson-Appleton-Middlesex plan in the city of Lowell; provided further, that not less than \$300,000 shall be expended for the Jewish Memorial Hospital for the purposes of developing and implementing an information technology skill upgrading program for its employees; provided further, that not less than \$139,500 shall be expended for Just a Start Corporation to provide training for entry level employment in the biotech and medical fields for 30 unemployed or displaced workers, or persons receiving benefits from transitional aid to families with dependent children; provided further, that not less than \$100,000 shall be expended for the Massachusetts Career De-

velopment Institute; provided further, that not less than \$900,000 shall be expended on the Massachusetts Service Alliance; provided further, that not less than \$150,000 shall be expended for a Farm Workers' Council serving low income people and the Hispanic population in Western Massachusetts; provided further, that not less than \$75,000 shall be expended for the Martin Luther King, Jr. Business Empowerment Center in Worcester; provided further, that not less than \$50,000 be expended for Our House Family Learning and Workforce Development Center; provided further, that not less than \$195,000 shall be expended for 3 full-time equivalent rapid response labor specialists at the Massachusetts AFL-CIO; provided further, that not less than \$75,000 shall be expended to support the Technology Initiative of the Metro South/West Regional Employment Board for the development of the Technology Centers of Excellence serving the region's youth and business, and said grant shall require a 200 per cent match from the private sector; provided further, that not less than \$200,000 shall be expended to the Western Massachusetts Enterprise Fund and the Southeastern Economic Development Corporation's microenterprise programs as a supplemental match to conduct an entrepreneurial training and technical assistance program for support of emerging high-growth microenterprises that are owned or employ income-eligible residents; provided further, that not less than \$40,000 shall be expended for community training in the city of Winthrop; provided further, that not less than \$100,000 shall be provided to the Workforce Investment Association of Ma, Inc. for the purpose of assisting administrators, career center directors, and fiscal agents . . . . . \$4,379,500

Workforce Training Fund . . . . . 100.0%

7003-0803 For the one-stop career centers; provided, that not more than \$2,750,000 shall be expended for the one-stop career centers, that were in existence on May 1, 1997, located in the Boston, Hampden county and the metro north service delivery areas and any satellite offices thereof which opened on or before December 1, 1997; provided further, that each career center shall inform unemployed or underemployed recipients of transitional aid to families with dependent children benefits who seek assistance from the center of the full range of edu-

cation and training programs that are available to them, the availability of jobs in the professions for which such programs prepare participants, and the average wage rates in such professions within the commonwealth; provided further, that such information shall encompass certified nurses aide training programs, job availability and wage rates; and provided further, that not less than \$1,000,000 shall be expended for 1-stop career centers that opened after January 1, 1999 .....\$3,750,000

*Office Of Consumer Affairs and Business Regulation.*

7006-0000 For the office of the director of consumer affairs and business regulation, including expenses of an administrative services unit .....\$1,439,583

*Division of Banks.*

7006-0010 For the operation of the division of banks; provided, that notwithstanding any general or special law to the contrary, 100 per cent of the amount appropriated in this item shall be assessed upon financial institutions which the division currently regulates pursuant to powers granted to the division by the General Laws, a special law or state regulations; provided further, that this assessment will be in addition to any and all assessments that the division currently assesses upon financial institutions and will be made at a rate sufficient to produce \$10,831,630 in additional revenue that shall pay for this item .....\$10,831,630

*Division of Insurance.*

7006-0020 For the operation of the division of insurance, including the expenses of the board of appeal on motor vehicle policies and bonds, and certain other costs of supervising motor vehicle liability insurance and the expenses of the fraudulent claims board; provided, that the positions of counsel I and counsel II shall not be subject to the provisions of chapter 31 of the General Laws; provided further, that contracts or orders for the purchase of statement blanks for the making of annual reports to the commissioner of insurance shall not be subject to the restrictions prescribed by section 1 of chapter 5 of the General Laws; provided further, that the division shall main-

tain a phone system in its western Massachusetts office that will immediately transfer calls made to that office to the consumer assistance office in Boston during any business hours when the western Massachusetts office is closed; provided further, that the division shall have an employee or other such person answering all initial incoming telephone calls, excluding all direct in-dial calls, between the hours of 9:00 a.m. and 5:00 p.m.; provided further, that the division shall designate an employee to handle all incoming calls relative to chapter 218 of the acts of 1995 or regulations promulgated under section 51 of chapter 111 of the General Laws; provided further, that not less than \$60,000 shall be allocated for administrative support personnel for the Automobile Insurers Appraisers Board; provided further, that notwithstanding any general special law to the contrary, 100 per cent of the amount appropriated in this item shall be assessed upon the institutions which the division currently regulates except for licensed business entity producers pursuant to powers granted to said division by the General Laws, a special law or state regulations; and provided further, that this assessment will be in addition to any and all assessments that the division currently assesses upon said institutions and will be made at a rate sufficient to produce \$9,779,622 in additional revenue that will pay for this item . . . \$9,779,622

*Division of Professional Licensure.*

7006-0040 For the operation and administration of the division of professional licensure; provided, that of the funds appropriated in this item, sufficient monies shall be expended for the reduction of case backlog at the boards of registration; provided further, that the division shall at all times employ not less than 2 hearing officers to facilitate the processing of cases pending before the various boards; provided further, that the position of investigator of radio and television technicians shall not be subject to chapter 31 of the General Laws; provided further, that the division shall maintain and staff an office in the city of Springfield; and provided further, that not less than \$1100.00 be expended to increase the number of Land Surveyors from 1 to 3 on the Board of Registration of Professional Engineers and Professional Land Surveyors . . . . \$3,026,523

Chap. 149

*Division of Standards.*

7006-0060	For the operation of the division of standards .....	\$650,689
7006-0066	For the support of the division of standard's municipal inspection efforts; provided, that up to 15 per cent of the amount appropriated herein may be expended for administrative costs of the division .....	\$300,000
7006-0067	The division of standards may expend for enforcement of weights and measures laws an amount not to exceed \$358,900 from revenues received from item pricing violations collected through municipal inspection efforts, and from weights and measure fees and fines collected from cities and towns .....	\$358,900
7006-0068	The division of standards may expend an amount not to exceed \$450,000 from revenue received from license fees assessed to owners of motor vehicle repair shops .....	\$450,000

*Department of Telecommunications and Energy.*

7006-0070	For the operation and administration of the department of telecommunications and energy including the community antenna television division; provided, that notwithstanding the second sentence of the first paragraph of section 18 of chapter 25 of the General Laws, the assessments levied pursuant to said first paragraph of said section 18 of said chapter 25 for fiscal year 2005 shall be made at a rate sufficient to produce \$7,897,089; provided further, that the department shall maintain a toll free consumer access telephone number to facilitate statewide citizen access on customer service issues in the delivery of cable television services .....	\$7,897,089
7006-0080	For the operation of the transportation division .....	\$532,951
7006-0090	The department of telecommunications and energy may expend revenues collected up to \$75,000 for the operation of the energy facilities siting commission .....	\$75,000

*State Racing Commission.*

7006-0110	For the operation of the state racing commission .....	\$2,085,179
-----------	--------------------------------------------------------	-------------

*Division of Energy Resources.*

7006-1000	For the operation of the division of energy resources; provided	
-----------	-----------------------------------------------------------------	--

---

**Chap. 149**

that notwithstanding any general or special law to the contrary, the amount assessed pursuant to provisions included in this act shall be equal to the amount expended from this item .....

\$400,000

7006-1001 For the residential conservation service program pursuant to chapter 465 of the acts of 1980, and the commercial and apartment conservation service program pursuant to section 11A of chapter 25A of the General Laws .....

\$197,715

*Department of Business and Technology.*

7007-0100 For the office of the director of the department of business and technology .....

\$359,981

7007-0300 For the operation of the Massachusetts office of business development and for marketing and promoting the commonwealth in order to attract and retain targeted businesses and industries; provided, that the office shall maintain business development assistance services at an office to be located at the University of Massachusetts at Dartmouth for the purposes of responding to inquiries and providing assistance to businesses seeking to expand or relocate to southeastern Massachusetts .....

\$1,338,574

7007-0500 For the operation and maintenance of the Massachusetts Biotechnology Research Institute for the purpose of promoting the commercialization of new, academic-based research and development, and raising the scientific awareness of the communities of the commonwealth .....

\$500,000

7007-0507 For the operation and maintenance of the Massachusetts Manufacturing Extension Partnership for the purpose of maintaining and promoting manufacturing as an integral part of the Massachusetts economy .....

\$850,000

7007-0515 For economic development grants to be administered by the department of business and technology; provided, that not less than \$150,000 be expended on the Cape Cod Regional Incubator Project to be operated by the Cape Cod Chamber of Commerce; provided further, that not less than \$200,000 shall be expended on the operation of the Massachusetts Fisheries Recovery Commission; and provided further, that not less than \$200,000 shall be expended for a grant to the South Shore Tri-Town Development Corporation established in chapter 301 of the acts of 1998 .....

\$550,000

Chap. 149

- 7007-0800 For a grant for the state match for a small business development center; provided, that no funds shall be expended from this item until such time as the United States small business administration has made a payment or has executed a contract to pay the University of Massachusetts at Amherst for the operation of the center; provided further, that the funds expended from this item shall not exceed 25 per cent of the gross operating cost of said center; provided further, that not more than \$300,000 of the amount appropriated herein shall be expended for the purpose of operating federal procurement technical assistance services within said center; provided further, that the services, shall include, but not be limited to, assisting businesses in securing federal contracts, obtaining contract financing, generating responses to requests-for-proposals, interpreting bid documents, providing educational workshops and seminars, and the electronic identification and tracking of federal bid opportunities; provided further, that the expenditure of said \$300,000 shall be subject to the receipt of matching funds from federal or private sources including the department of defense; and provided further, that quarterly expenditure reports shall be filed with the house and senate committees on ways and means ..... \$1,113,415
- 7007-0900 For the operation and administration of the office of travel and tourism and for grants to public and private nonprofit local and regional organizations to be awarded by the Massachusetts office of travel and tourism for tourism promotion; provided, that performance-based standards shall be incorporated in all contracts executed by said office for the procurement of tourism marketing and advertising services; provided, that the organizations shall be required, as a condition of receiving a grant, to submit a total operating budget which identifies each source and use of operating and capital funds; provided further, that said grants shall not replace or supplant funding otherwise available to said centers from local chambers of commerce, regional tourist councils, and other public or private funding sources; provided further, that not less than \$2,000,000 of the amount appropriated herein shall be expended to implement the strategic plan developed by the business entity that is awarded the contract pursuant to section 60 of chapter 141 of the acts of 2003 to recover the Commonwealth's lost international tourism market

share; provided further, that not less than \$60,000 shall be expended for an economic development project operated by the Arlington Neighborhood Association in the city of Lawrence; provided further, that not less than \$200,000 shall be expended for the Bay State Games; provided further, that not less than \$185,000 shall be expended for the Belchertown Economic Development Corporation; provided further, that not less than \$500,000 shall be expended for the Berkshire Museum subject to a 100 per cent funding match; provided further, that not less than \$30,000 shall be expended for the Blackstone Valley Chamber of Commerce; provided further, that not less than \$100,000 shall be expended for an economic development project in the town of Braintree; provided further, that not less than \$100,000 shall be expended for a Business Location Information Project operated by the Greater Haverhill Chamber of Commerce; provided further, that not less than \$100,000 shall be expended for an economic development project on Buzzards Bay Main Street; provided further, that not less than \$100,000 shall be expended for the Cape Cod Economic Development Council; provided further, that not less than \$100,000 shall be expended for a matching grant to the proposed Cape Cod Maritime Museum in Hyannis; provided further, that not less than \$50,000 shall be expended for the Caribbean Carnival Association; provided further, that not less than \$75,000 shall be expended for a technology training program operated by the Cape Cod Technology Council; provided further, that not less than \$50,000 shall be expended for a the Central Quabbin Tourism Association; provided further, that not less than \$30,000 shall be expended for an economic development project at Chestnut Hill Reservoir in the city of Boston; provided further, that not less than \$94,531 shall be expended for City Stage; provided further, that not less than \$1,000,000 shall be expended for the Colonial Theater, subject to a 100 per cent funding match; ;provided further, that not less than \$100,000 shall be expended for an economic development project at the historic Corkin building in the town of Randolph; provided further, that not less than \$75,000 shall be expended for the Cultural Center of Cape Cod; provided further, that not less than \$15,000 shall be expended for an education and science grant for the city of Worcester; provided further, that not less

than \$200,000 shall be provided for an economic development project at the Elco Dress Factory in New Bedford; provided further, that not less than \$100,000 shall be expended for the Freedom Trail Foundation; provided further, that not less than \$300,000 shall be expended for a grant for the From the Top Inc.; provided further, that not less than \$100,000 shall be expended for a tourism promotion project at the Grandview Farm in Burlington; provided further, that not less than \$125,000 shall be expended for a historic development project at the Worcester Center for the Performing Arts; provided further, that not less than \$500,000 shall be made available through a grant application process established by the office of travel and tourism to offset deficits that may occur during fiscal year 2005 for the highway information centers operating year-round on state highways and federally-assisted highways, and the visitor information centers on Boston Common and the Prudential Center, both in the city of Boston; provided further, that not less than \$100,000 shall be expended for the I-495 Technology Corridor Initiative; provided further, that not less than \$165,000 shall be expended for the International Trade Assistance Center in Fall River; provided further, that not less than \$50,000 shall be expended for the Johnny Appleseed Visitor's Center; provided further, that not less than \$500,000 shall be expended for the Mahaiwe Theater subject to a 100 per cent funding match; provided further, that not less than \$5,000 shall be expended for the Massachusetts Film Bureau and said agency shall be the primary service provider for film production and development in the commonwealth; provided further, that \$250,000 shall be expended for a grant to the Massachusetts Sports and Entertainment Partnership; provided further, that not less than \$200,000 shall be expended for the Memorial Auditorium in the city of Lynn; provided further, that not less than \$250,000 shall be expended for the Merrimack Valley Economic Development Council; provided further, that notwithstanding any general or special law to the contrary, a grant of not less than \$250,000 shall be transferred from this item to the Massachusetts office of business development for regional tourism and economic

development in Southeastern Massachusetts including the Southcoast Development Project; provided further, that not less than \$500,000 shall be expended for the Mohawk Theater, subject to a 100 per cent funding match; provided further, that not less than \$50,000 shall be expended for the New Bedford Art Museum; provided further, that not less than \$60,000 shall be expended for the New England Puerto Rican association; provided further, that not less than \$75,000 shall be expended for an economic development project in North Attleboro; provided further, that not less than \$50,000 shall be expended for the North End Visitor Center in the city of Boston; provided further, that not less than \$75,000 shall be expended for the Old Provincial State House; provided further, that not less than \$40,000 shall be expended as a grant for the Pioneer Valley Planning Commission for the purposes of a study of tourism promotion within Southamptton and Montgomery; provided further, that not less than \$40,000 shall be expended as a grant for the Pioneer Valley Visitors and Tourist Information Center; provided further, that not less than \$35,000 shall be expended for the Pittsfield Office of Cultural Development; provided further, that not less than \$100,000 shall be expended for a portico surrounding Plymouth Rock; provided further, that not less than \$75,000 shall be expended for the Puerto Rican Cuatro Project; provided further, that not less than \$50,000 shall be expended for the Riverside Theater Works in Hyde Park in the City of Boston; provided further, that funds shall be expended for an economic development project on Rt. 110 in Amesbury; provided further, that not less than \$100,000 shall be expended for the Russian Community Association; provided further, that not less than \$25,000 shall be expended for the Salisbury Chamber of Commerce; provided further, that not less than \$100,000 shall be expended for the September 11th memorial at Battleship Cove in Fall River; provided further, that not less than \$75,000 shall be expended for a Shrewsbury Business District economic development project; provided further, that not less than \$250,000 shall be expended for the Southcoast Development Partnership for the purposes of regional tourism and economic development; provided further, that not less than \$100,000 shall be expended for the

city of Springfield's Office of Economic Development to develop a walking tour of the city of Springfield; provided further, that not less than \$100,000 shall be expended for the U.S. Women's Open; provided further, that not less than \$75,000 shall be expended for the Waltham Tourist Council; provided further, that not less than \$30,000 shall be expended for the Water Farms Preservation, Inc.; provided further, that not less than \$103,000 shall be expended for an historic redevelopment project at the West School in the Town of Wilmington; provided further, that not less than \$50,000 shall be expended for a tourism promotion project in Westborough; provided further, that not less than \$100,000 shall be expended for the Western Massachusetts Economic Development Council; provided further, that expenditures on international and domestic promotion and administration shall be separately accounted for in the Massachusetts Management Accounting and Reporting System; provided further, that said office shall be required to make travel arrangements for all international travel not less than 7 days before departure; provided further, that the office shall dedicate 1 full-time equivalent employee to the advisory commission on travel and tourism; and provided further that the office shall make every effort to develop tourism in under-visited regions of the commonwealth . . . . . \$17,053,305

Tourism Fund . . . . . 100.0%

7007-1000 For assistance to local tourist councils pursuant to section 14 of chapter 23A of the General Laws; provided, that notwithstanding any general or special law, regulation or rule to the contrary, each of the councils may expend an amount not to exceed 17.5 per cent of the grant it receives herein for the cost of administrative services . . . . . \$6,929,211

Tourism Fund . . . . . 100.0%

7007-1200 For a program to create and maintain a more favorable and responsive environment for the attraction and retention of technology-intensive clusters for the commonwealth; provided, that such clusters may be characterized by technological or market focus, geographic proximity or other shared interests; provided further, that cluster activities shall be deemed to be the exercise of an essential governmental function intended to: (1) foster increased collaboration among cluster organizations; (2) facilitate improved communications

between the commonwealth and cluster organizations; (3) identify and respond to challenges and opportunities related to cluster organizations; (4) enhance the competitive position of cluster firms; (5) reduce the costs of doing business in the commonwealth through 1 or more purchasing cooperatives; and (6) generally improve the perception of the value and benefits of doing business in the commonwealth; provided further, that not less than \$2,000,000 shall be expended on one-time grants-in-aid and related activities in support of the creation, operation, and evaluation of a pilot wireless learning initiative; provided further, that said grants shall be matched by contributions from federal or local public entities, private entities, and other qualified investment entities equal to two times the expenditures on said pilot from this line item; provided further, that amounts appropriated in this item shall be expended to the Massachusetts Technology Park Corporation to be held, applied and administered through its Massachusetts Technology Collaborative; provided further, that said corporation shall establish an independent advisory panel to advise said corporation relative to the most effective application of funds appropriated in this item; provided further, that the executive director shall file a report with the house and senate committees on science and technology and the house and senate committees on ways and means detailing the activities undertaken with the funds appropriated herein by January 15, 2005; provided further, that not less than \$525,000 shall be expended by the Massachusetts technology collaborative to assist the Massachusetts department of business and technology to support each of the 7 regional competitive councils through a matching grant program or other equivalent support; provided further, that of said \$525,000 each of the 7 regional competitiveness councils shall receive or benefit from not less than \$75,000; provided that each dollar awarded to each regional competitiveness council shall be matched by one dollar in matching investment; and provided further, that the Massachusetts department of business and technology shall submit quarterly reports to the house and senate committees on ways and means and the joint committee on commerce and labor detailing the amounts awarded and the purposes for said grants ..... \$3,025,000

---

## Chap. 149

7007-1300 For the operation of the Massachusetts international trade council ..... \$960,000  
Tourism Fund ..... 100.0%

7007-1500 For the operation and administration of the state office of minority and women business assistance; provided, that said office shall administer an electronic business certification application which shall be accessible to business applicants through use of the Internet; provided further, that said office shall ensure the integrity and security of personal and financial information transmitted by said electronic application; provided further, that said office shall, using all existing available resources, provide certification services within each of the 1-stop regional assistance centers of the Massachusetts office of business development; and provided further, that the office shall develop and implement measures and procedures to continue to improve the efficiency and the timeliness of the certification process ..... \$642,670

*Department of Housing and Community Development.*

7004-0000 For the commonwealth development coordinating council; provided, that, not less than 30 days before entering into any interagency service agreement, the council shall report in writing to the house and senate committees on ways and means a description of the agreement, including its purpose, the employees expected to be affected, and the estimated amount of the funds involved; provided further, that not later than September 15, 2004 said council shall submit a report detailing its fiscal year 2004 payroll, operational and administrative expenditures to the house and senate committees on ways and means; provided further, that said report shall detail all sources of funding used in fiscal year 2004 and an explanation of all funds expended in excess of the amount appropriated in this item in fiscal year 2004; and provided further, that no funds appropriated herein shall be expended or encumbered after September 16, 2004 unless said report has been submitted to the house and senate committees on ways and means ..... \$240,000

7004-0001 For the Indian affairs commission ..... \$94,663

7004-0099 For the operation of the department of housing and community development; provided, that notwithstanding any general or

special law to the contrary, the department may make expenditures for the purposes of the department against federal grants for certain direct and indirect costs pursuant to a cost overhead allocation plan approved by the comptroller; provided further, that the comptroller shall maintain an account on the Massachusetts management accounting and reporting system for the purpose of making such expenditures; provided further, that expenditures made against the account shall not be subject to appropriation and may include the cost of personnel; provided further, that notwithstanding any general or special law, rule, or regulation to the contrary, the department of housing and community development may conduct annual verifications of household income levels based upon state tax returns for the purposes of administering the state and federal housing subsidy programs funded in items 7004-9005, 7004-9009, 7004-9014, 7004-9019, 7004-9020, 7004-9024, 7004-9030 and 7004-9033; provided further, that as a condition of eligibility or continued occupancy by an applicant or a tenant, said department may require disclosure of the social security number of an applicant or tenant and members of such applicant's or tenant's household for use in verification of income eligibility; provided further, that said department may deny or terminate participation in subsidy programs for failure by an applicant or a tenant to provide a social security number for use in verification of income eligibility; provided further, that said department may also consult with the department of revenue, the department of transitional assistance or any other state or federal agency which it deems necessary to conduct such income verification; provided further, that notwithstanding the provisions of any general or special law to the contrary, such state agencies shall consult and cooperate with said department and furnish any information in the possession of said agencies including, but not limited to, tax returns and applications for public assistance or financial aid; provided further, that for the purposes of conducting such income verification, the director of said department may enter into an interdepartmental service agreement with the commissioner of revenue to utilize the department of revenue's wage reporting and bank match system for the purpose of verifying the income and eligibility

of participants in such federally assisted housing programs and that of members of the participants' households; provided further, that for the purposes of clarification only, notwithstanding the provisions of section 12 of chapter 490 of the acts of 1980, said department may authorize neighborhood housing services corporations to retain, re-assign, and reloan funds received in repayment of loans made pursuant to the neighborhood housing services rehabilitation program; provided further, that not less than \$20,000 shall be expended for Methuen-Arlington Neighborhood, Inc.; provided further, that not less than \$100,000 shall be expended for the Hungry Hill Community Development Corporation; provided further, that not less than \$50,000 shall be expended for the Allston-Brighton Community Development Corporation for a grant program to enhance housing quality standards; provided further, that \$50,000 may be expended for Cedar Gardens task force in Natick; provided further, that not less than \$100,000 shall be expended for the establishment of the East Springfield-Indian Orchard-Pine Point Community Development Corporation; provided further, that not less than \$50,000 shall be expended for the Rockland Community Center in Rockland; provided further, that \$25,000 may be expended for the Beverly Affordable Housing Coalition; provided further, that not less than \$100,000 shall be expended for the Springfield Neighborhood Housing Services, Inc.; provided further, that not less than \$95,000 shall be expended for the West Broadway Housing Task Force for the purposes of tenant services; provided further, that \$50,000 shall be expended for the Pleasant Street Neighborhood Network in Worcester; provided further, that \$50,000 shall be expended for the Bellingham Housing Task Force; provided further, that not less than \$10,000 shall be expended for the Turning Point Day Resource Center for the Homeless in the town of Wareham; provided further, that not less than \$50,000 shall be expended for the continued operation of computer technology centers at the Commonwealth Housing Development and the Jackson Mann Community Center; and provided further, that not less than \$100,000 shall be expended for Neighbors in Need in Lawrence . . . . . \$7,335,658

7004-3036 For housing services and counseling; provided, that not less than

\$505,000 shall be expended as grants for the operation of 9 regional housing consumer education centers operated by the regional nonprofit housing authorities; provided further, that the grants shall be through a competitive application process pursuant to criteria created by the department; provided further, that not less than \$141,000 shall be expended for the Just-A-Start Corporation to administer a housing stabilization conflict management services program to prevent homelessness; provided further, that \$80,925 shall be expended for the Central Massachusetts Housing Alliance; and provided further, that no funds shall be expended from this item in the AA subsidiary, so-called, for the compensation of state employees . . . . . \$821,925

7004-4314 For the expenses of a service coordinators program established by the department to assist tenants residing in housing developed pursuant to sections 39 and 40 of chapter 121B of the General Laws to meet tenancy requirements in order to maintain and enhance the quality of life in said housing . . . . . \$490,401

7004-9005 For subsidies to housing authorities and nonprofit organizations for deficiencies caused by certain reduced rentals in housing for the elderly, handicapped, veterans and relocated persons pursuant to sections 32 and 40 of chapter 121B of the General Laws; provided, that notwithstanding any general or special law to the contrary, all housing authorities operating elderly public housing shall offer first preference for elderly public housing units which are vacant as of the effective date of this act, and thereafter, to those persons 60 years of age or older on June 30, 1995, receiving rental assistance from the Massachusetts rental voucher program; provided further, that said department may expend funds appropriated in this item for deficiencies caused by certain reduced rentals which may be anticipated in the operation of housing authorities for the first quarter of the subsequent fiscal year; provided further, that no monies shall be expended from this item for the purpose of reimbursing the debt service reserve included in the budgets of housing authorities; provided further, that no funds shall be expended from this item in the AA subsidiary, so-called, for the compensation of state employees; provided further, that the amount appropriated herein shall be deemed to meet any and all obligations pursuant to said sections 32 and 40 of said chapter 121B; provided further, that any new

	reduced rental units developed in fiscal year 2005 eligible for subsidies pursuant to this item, shall not cause any annualization that results in an amount exceeding the amount appropriated in this item; and provided further, that all funds in excess of normal utilities, operations, and maintenance costs may be expended for capital repairs . . . . .	\$30,271,292
7004-9024	For a program of rental assistance for low-income families and elderly persons through mobile and project-based vouchers; provided, that rental assistance shall only be paid pursuant to a program to be known as the Massachusetts rental voucher program; provided further, that the income of the households shall not exceed 200 per cent of the federal poverty level; provided further, that the department may award mobile vouchers to eligible households currently occupying project-based units, that shall expire due to the nonrenewal of project-based rental assistance contracts; provided further, that the department, as a condition of continued eligibility for vouchers and voucher payments, may require disclosure of social security numbers by participants and members of participants' households in the Massachusetts rental voucher program for use in verification of income with other agencies, departments and executive offices; provided further, that any household in which a participant or member of a participant's household shall fail to provide a social security number for use in verifying the household's income and eligibility shall no longer be eligible for a voucher or to receive benefits from the voucher program; provided further, that the vouchers shall be in varying dollar amounts and shall be set by the department based on considerations, including, but not limited to, family size, composition, income level and geographic location; provided further, that notwithstanding any general or special law to the contrary, the use of rent surveys shall not be required in determining the amounts of the mobile vouchers or the project-based units; provided further, that any household which is proven to have caused intentional damage to their rental unit in an amount exceeding 2 month's rent during any 1-year lease period shall be terminated from the program; provided further, that notwithstanding any general or special law to the contrary, a mobile voucher whose use is or has been discontinued shall	

be re-assigned within 90 days; provided further, that the department shall pay agencies \$25 per voucher per month for the costs of administering the program; provided further, that the costs of administration shall not exceed 6 per cent of the appropriation provided in this item; provided further, that the 6 per cent shall include, but not be limited to, all expenditures which may be made by the department to conduct or otherwise contract for rental voucher program inspections; provided further, that subsidies shall not be reduced for the cost of accommodating the cost of the inspections; provided further, that notwithstanding any general or special law to the contrary, there shall be no maximum per centage applicable to the amount of income paid for rent by each household holding a mobile voucher or project-based voucher, but each household shall pay at least 30 per cent of its income as rent; provided further, that the department shall establish the amounts of the mobile vouchers and the project-based vouchers, so that the appropriation in this item is not exceeded by payments for rental assistance and administration; provided further, that the department shall not enter into commitments which will cause it to exceed the appropriation set forth herein; provided further, that ceiling rents shall not be enforced by the department; provided further, that the households holding mobile vouchers shall have priority for occupancy of the project-based dwelling units in the event of a vacancy; provided further, that the department may impose certain obligations for each participant in the Massachusetts rental voucher program through a 12-month contract which shall be executed by the participant and the department; provided further, that such obligations may include, but need not be limited to, job training, counseling, household budgeting and education, as defined in regulations promulgated by the department and to the extent such programs are available; provided further, that each participant shall be required to undertake and meet any such contractually established obligation as a condition for continued eligibility in the program; provided further, that for continued eligibility each participant shall execute any such 12-month contract on or before September 1, 2004 if his annual eligibility recertification date occurs between June 30, 2004 and September 1,

2004 and otherwise on or before his annual eligibility recertification date; provided further, that any participant who is over the age of 60 years or who is handicapped may be exempted from any obligations unsuitable under particular circumstances; provided further, that the department shall submit an annual report not later than February 1, 2005 to the secretary of administration and finance and the house and senate committees on ways and means detailing expenditures, the number of outstanding rental vouchers by income level and the number and types of units leased that are funded from this item; provided further, that no funds shall be expended from this item in the AA subsidiary for the compensation of state employees; provided further, that the department may assist housing authorities, at their written request, in the immediate implementation of a homeless prevention program utilizing alternative housing resources available to them for low income families and the elderly by designating participants in the Massachusetts rental voucher program as at risk of displacement by public action through no fault of their own; provided further, that participating local housing authorities may take all steps necessary to enable them to transfer mobile voucher program participants from the Massachusetts rental voucher program into another housing subsidy program; and provided further, that the department of housing and community development shall strive to avoid a reduction in the value of the Massachusetts rental voucher from its value as of June 30, 2004 . . . . . \$24,283,345

7004-9030 For the transitional rental assistance program established pursuant to chapter 179 of the acts of 1995; provided, that notwithstanding any general or special law to the contrary, the transitional rental assistance shall be in the form of mobile vouchers; provided further, that the vouchers shall be in varying dollar amounts set by the department based on considerations including, but not limited to, household size, composition, household income and geographic location; provided further, that any household which is proven to have caused intentional damages to its rental unit in an amount exceeding 2 month's rent during any 1 year shall be terminated from the program; provided further, that the department shall pay agencies that administer said program an allowance not

to exceed \$25 per voucher per month for the costs of administration; provided further, that notwithstanding any general or special law to the contrary, there shall be no maximum per centage applicable to the amount of income paid for rent by each household holding a mobile voucher, but each household shall be required to pay not less than 25 per cent of its net income, as defined in regulations promulgated by the department, for units if utilities are not provided by the unit owner, or not less than 30 per cent of its income for units if utilities are provided by the unit owner; provided further, that payments for the transitional rental assistance may be provided in advance; provided further, that the department shall establish the amounts of the mobile vouchers, so that the appropriation herein is not exceeded by payments for rental assistance and administration; provided further, that the department shall not enter into commitments which will cause it to exceed the appropriation set forth herein; provided further, that the amount of a rental assistance voucher payment for an eligible household shall not exceed the rent less the household's minimum rent obligation; provided further, that the word "rent", as used in this item, shall mean payments to the landlord or owner of a dwelling unit pursuant to a lease or other agreement for a tenant's occupancy of the dwelling unit, but shall not include payments made by the tenant separately for the cost of heat, cooking fuel, and electricity; provided further, that the department shall submit an annual report to the budget director, the secretary of administration and finance, and the house and senate committees on ways and means detailing expenditures, the number of outstanding rental vouchers, and the number and types of units leased; provided further, that nothing stated herein shall give rise to or shall be construed as giving rise to enforceable legal rights in any party or an enforceable entitlement to any form of housing; provided further, that consistent with chapter 179 of the acts of 1995 the amount appropriated herein shall not annualize to more than \$2,300,000 in fiscal year 2006; and provided further, that said program shall provide funding for not more than 800 mobile vouchers . . . . . \$2,300,000

7004-9033 For rental subsidies to eligible clients of the department of mental

	health; provided, that the department shall establish the amounts of said subsidies so that payment thereof and of any other commitments from this item shall not exceed the amount appropriated herein . . . . .	\$2,000,000
7004-9201	For interest subsidies for the private development of affordable housing; provided, that notwithstanding any general or special law to the contrary, no new commitments shall be entered into during fiscal year 2005 for said fiscal year or any subsequent fiscal years; and provided further, that funds may be allocated by said agency to its existing interest subsidy contracts in a manner as it may determine necessary to maximize the preservation of existing affordable housing units throughout the commonwealth . . . . .	\$5,500,000
7004-9315	For the low income housing tax credit program; provided, that the department may expend an amount not to exceed \$1,500,000 accrued from fees collected for the regulation of TELLER projects undertaken pursuant to clause (m) of section 26 of chapter 121B of the General Laws from fees collected pursuant to Executive Order No. 291, pertaining to low-income housing tax credits, for the costs of administering and monitoring the programs, including the costs of personnel, subject to the approval of the director of the department; and provided further, that notwithstanding any general or special law to the contrary and for the purpose of accommodating timing discrepancies between the receipt of retained revenues and related expenditures, the department may incur expenses and the comptroller may certify for payment amounts not to exceed the lower of this authorization or the most recent revenue estimate therefore as reported in the state accounting system, prior appropriation continued . . . .	\$1,500,000
7004-9316	For a 1-year pilot project to provide assistance for homeless families and families at risk of becoming homeless; provided, that the amount of financial assistance shall not exceed \$3,000 per family; provided further, that funds may be used for security deposits, first and last month's rent, moving expenses, utility payments or other uses as determined by the department of housing and community development; provided further, that assistance shall be administered by the department through contracts with the regional non-profit housing agencies; provided further, that no such assistance shall be provided to any family with an income in excess of	

130 per cent of the federal poverty level; provided further, that prior to authorizing a residential assistance payment for a family, the non-profit housing agency shall make an assessment of whether said payment, with or without additional housing stabilization support, will enable the family to retain its current housing, obtain new housing, or otherwise avoid homelessness; provided further, that in making such assessment the agency shall apply a presumption that said payment will enable a family to retain its housing, obtain new housing, or otherwise avoid homelessness if the family is paying less than or equal to 50 per cent of its income for said housing; provided further, that a family who is paying more than 50 per cent of its income for its housing shall be provided a fair opportunity to establish that a residential assistance payment will enable it to retain its housing, obtain new housing, or otherwise avoid homelessness; provided further, that residential assistance payments may be made through direct vendor payments according to standards to be established by the department; provided further, that the agencies shall establish a system for referring families approved for residential assistance payments who the agencies determine would benefit from such services to existing community-based programs that provide additional housing stabilization supports, including assistance in obtaining housing subsidies and locating alternative housing that is safe and affordable for said families; provided further, that the program shall be administered pursuant to guidelines established by the department; and provided further, that the department shall provide a status report to the secretary of administration and finance and the house and senate committees on ways and means no later than March 1, 2005 detailing all expenditures of said program including, but not limited to, the number of recipients of the funds, the number of recipients of the funds who would have otherwise stayed in a homeless shelter, the number of recipients who stayed in a homeless shelter within 1 year of receiving the funds, the housing status of the recipients, the purposes for which each family used the assistance, the administrative costs and any other related costs of the program ..... \$2,000,000

*Department of Education.*

7010-0005	For the operation of the department of education; provided, that the department of education, in collaboration with the Governor's Commission on Gay and Lesbian Youth, shall implement the board of education's recommendations on the support and safety of gay and lesbian students . . . . .	\$9,336,084
7010-0012	For grants to cities, towns and regional school districts for payments of certain costs incurred under the program for the elimination of racial imbalance; provided, that grants to cities, towns and regional school districts shall be limited to actual and specifically incurred documented incremental costs including those costs pursuant to chapter 71B of the General Laws as a direct consequence of participation in the program whenever the reimbursements requested by such city, town or regional school district exceed the level of reimbursement received in fiscal year 1977; provided further, that the division of elementary, secondary and occupational education shall, through a competitive procurement process, contract with qualified school transportation business enterprises; and provided further, that funds shall be made available for payment for services rendered by METCO, Inc. and Springfield public schools . . . . .	\$15,615,313
7010-0017	For grants to charter schools; provided, that the board of education may award grants to charter schools established under section 89 of chapter 71 of the General Laws; provided further, that said grants shall be awarded to support costs associated with planning and development of the schools and for the leasing or construction of school facilities; provided further, that charter schools shall submit requests for the grants to the board of education; provided further, that not less than \$200,000 shall be made available to the AppleTree Institute of Boston for the purpose of establishing a program to provide technical assistance to communities and organizations seeking to create Horace Mann Charter Schools; and provided further, that grants shall be awarded pursuant to guidelines developed by the board . . . . .	\$2,301,790
7010-0216	For the teacher, principal, and superintendent recruitment and retention programs established in sections 19B, 19C, and 19E of chapter 15A of the General Laws . . . . .	\$1,487,187

- 7027-0016 For matching grants for various school-to-work programs; provided, that the board of education shall establish guidelines for such programs in consultation with the department of workforce development; provided further, that any funds distributed from this item to cities, towns or regional school districts shall be deposited with the treasurer of the city, town, or regional school district and held in a separate account and shall be expended by the school committee without further appropriation, notwithstanding any general or special laws to the contrary; provided further, that each grant awarded herein shall be matched by the recipient from local, federal, or private funds; provided further, that the board of education may determine the per centage match required on an individual grant basis; provided further, that the department of education shall make available a payment of \$596,883 for the state's matching grant for the CS-squared program at the Corporation for Business, Work and Learning; provided further, that the department of education shall make available a payment of \$942,191 to Jobs for Bay State Graduates, Inc., for the purpose of school-to-work activities; and provided further, that the department of education shall make available a payment of \$42,975 to the Blue Hills regional vocation school for the School to Careers Partnership to fund a teacher externship program and a student internship program ..... \$1,582,049
- 7027-0019 For school-to-career connecting activities; provided, that notwithstanding any general or special law to the contrary, the board of education, in cooperation with the department of workforce development and the state workforce investment board, may establish and support a public-private partnership to link high school students with economic and learning opportunities on the job as part of the school-to-work transition program; provided further, that such program may include the award of matching grants to workforce investment boards or other local public-private partnerships involving local community job commitments and work site learning opportunities for students; provided further, that the grants shall require at least a 200 per cent match in wages for the students from private sector participants; provided further, that the program shall include, but not be limited to, a provision that business leaders

Chap. 149

commit resources to pay salaries, to provide mentoring and instruction on the job and to work closely with teachers; and provided further, that public funds shall assume the costs of connecting schools and businesses to ensure that students serve productively on the job . . . . . \$4,129,687

7028-0031 For the expenses of school age children in institutional schools pursuant to section 12 of chapter 71B of the General Laws; provided, that the department may provide special education services to eligible inmates in county houses of correction; provided further, that the department of education shall collaborate with the department of youth services to develop recommendations for a foundation budget for educational services provided to children in the care of the department of youth services and shall submit said recommendations to the secretary of administration and finance and the house and senate committees ways and means by December 1, 2004 along with recommendations on how to fund these services within the parameters of chapter 70 aid or in some other manner as appropriate; provided further, the board of education shall include those recommendations in its fiscal year 2006 budget request . . . . . \$7,475,183

7030-1000 For grants to cities, towns, regional school districts, educational collaboratives, head start programs, and licensed day care providers for early care and education programs, pursuant to section 54 of chapter 15 of the General Laws; provided, that any payment made under any such grant with a school district shall be deposited with the treasurer of such city, town, or regional school district and held as a separate account and shall be expended by the school committee of such city, town, or regional school district without municipal appropriation, notwithstanding any general or special law to the contrary; provided further, that in any city or town in which there was only 1 lead agency in fiscal year 1995, such lead agency shall serve as lead agency to submit proposals pursuant to said section 54 of said chapter 15; provided further, that the amount by which the funds appropriated in this item exceed the amount appropriated in item 7030-1000 of chapter 60 of the acts of 1994 shall be used to provided services to the children of working parents; provided further, that in allocating the funds and evaluating grant applications, the board of education shall give priority consideration to 3 and

4 year old children in cities and towns where high concentrations of low income working families reside; provided further, that not less than one-third of the total slots funded by the amount by which the funds appropriated in this item exceed the amounts appropriated in said item 7030-1000 of chapter 60 of the acts of 1994 shall be for full-day, full-year care that meets the needs of working parents; provided further, that notwithstanding the provisions set forth herein or any general or special law to the contrary, funds may be allocated for services which shall be provided to 3 and 4 year old children formerly on the wait list maintained by the office for child care services; provided further, that said children shall retain priority status for future services available through said office upon attaining the age of 5, notwithstanding the receipt of services funded through this item provided further, that the department of education shall ensure that community partnership lead agencies collaborate with the department of education and the office for child care services to provide services for said children; provided further, that funds shall be expended for Mass Family Networks; provided further, that funds may be expended for administrative costs; and provided further, that recipients of grants distributed from this item shall not expend more than 8 per cent of said grants for administrative costs; and provided further, that notwithstanding chapter 66A of the General Laws to the contrary, the department of education, the office of child care services, the department of public health, community partnership lead agencies, and child care resource and referral agencies may share with each other personal data regarding the parents and children who receive services provided under early education and care programs administered by the commonwealth for waitlist management, program implementation and evaluation, reporting, and policy development purposes ..... \$74,605,058

7030-1002 For kindergarten development grants to provide ongoing grant awards to continue quality enhancement of existing full-day kindergarten classrooms and to encourage the transition of half day classrooms into full-day kindergarten classrooms; provided, that the office of school readiness shall administer a grant program to encourage the voluntary expansion of high quality, full-day kindergarten education throughout the com-

monwealth; provided further, that grants of not more than \$18,000 per classroom shall be made available to public schools for the enhancement of existing full-day kindergarten classrooms and for the transition of existing half-day kindergarten classrooms into full day kindergarten classrooms; provided further, that said grants shall be awarded pursuant to guidelines established by the department relative to the application and award process which shall include eligibility criteria, allowable grant expenditures and grant recipient obligations; provided further, that guidelines for transition grants shall require applicants for such grants to identify obstacles that impede the transition to full-day kindergarten; provided further, that the guidelines shall require grant recipients to identify the anticipated date by which the implementation of quality enhancement or transition projects shall commence; provided further, that the guidelines shall detail the range of permissible grant expenditures which shall include, but not be limited to, the expenditure of funds for facility improvements or other expenses necessary to provide adequate space for the transition from half-day kindergarten classrooms into full-day kindergarten classrooms; provided further, that grants funded through this appropriation shall not annualize to more than \$18,000 per classroom in subsequent fiscal years; provided further, that preference shall be given to grant applicants with high per centages of students scoring in levels 1 or 2 on the Massachusetts comprehensive assessment system exam, as determined by the department based on available data; provided further, that any grant funds distributed from this item shall be deposited with the treasurer of such city, town or regional school district and held in a separate account and shall be expended by the school committee of such city, town or regional school district without further appropriation, notwithstanding the provisions of any general or special law to the contrary; provided further, that such program shall supplement and shall not supplant currently funded local, state and federal programs at the school or district; provided further, that not later than January 15, 2005 the department shall report to the house and senate committees on ways and means on the total number of enhancement and transition grants requested and awarded; provided further, that the report shall

	detail common factors associated with both successful and unsuccessful applications and shall include the total number of full-day and half-day kindergarten classrooms projected to be in operation in Massachusetts public schools in fiscal year 2006; provided further, that funds appropriated in this item for transition grant awards may be expended through August 31, 2005 for the purposes of transition projects scheduled for the school year beginning in September, 2005; and provided further, that the department may expend not more than \$200,000 to administer the grants program established herein . . . . .	\$23,000,000
7030-1003	For the John Silber early literacy program and teacher training to promote research based school-wide literacy education and to promote literacy among children in grades K through 3 in the commonwealth; provided, that the office of reading and language arts shall administer said early literacy grant programs to improve the quality and effectiveness of literacy education in the commonwealth to the greatest extent possible; provided further, that these early literacy education programs shall be based on a scientifically-based reading research program consistent with the federal Reading First Initiative; provided further, that such school-wide literacy education programs shall provide for the evaluation and tracking of all students' reading and writing skills annually, shall include measurable goals and benchmarks, shall be lead by a school-based planning team which includes teaching faculty and the school principal, shall provide for the training of teachers in effective strategies for reading instruction and shall include a school-wide literacy coordinator who shall be responsible for the coordination and training of other school staff; provided further, that \$385,000 shall be expended for JFY.net, a Jobs for Youth initiative for high technology, literacy and job skill instruction to youth and adults through advanced software and existing infrastructure capacity in schools and community agencies; provided further, that funds shall be expended for the BayState Readers Initiative, modeled on the research-based best practices of the Alabama Reading Initiative, and which shall include maintaining support for existing Bay State readers schools and providing additional funds for new schools to participate in said program; provided further, that said initiative shall provide for	

the training of teachers in effective strategies for reading instruction and shall otherwise be consistent with the overall purpose of this item and with the Reading First Initiative; provided further, that in its evaluation of applications for said initiative, said office may take into consideration schools' cumulative grade 3 MCAS scores; provided further, that funds appropriated in this item for said initiative may be expended through August 31, 2005; provided further, that not more than \$50,000 shall be made available to Edvocacy of Concord, to fund a school based pilot program designed to enhance the detection, evaluation and tracking of Dyslexia in students grades K through 3; provided further, that the results of said pilot shall be reported to the commissioner of education not later than December 31, 2005; provided further, that not more than \$500,000 shall be made available for matching grants to fund the Reach Out and Read program, to provide books to at-risk children in the commonwealth through book distribution programs established in community health centers, medical practices and hospitals for at-risk children; provided further, that the funds distributed through the Reach Out and Read program shall be contingent upon a match of not less than \$1 in private or corporate contributions for every dollar in state funding distributed through said grant program; provided further, that \$60,000 shall be expended for the Lawrence Learning Center and Community Development in the city of Lawrence; provided further, that such program shall supplement currently funded local, state and federal programs at the school or district; and provided further, that any grant funds distributed from this item shall be deposited with the treasurer of such city, town or regional school district and held in a separate account and shall be expended by the school committee of such city, town or regional school district, without further appropriation, notwithstanding the provisions of any general or special law to the contrary . . . . . \$4,122,989

7030-1004 For grants for home-based parenting and family literacy program known as the Parent-Child Home Program; provided, that the department of education shall distribute the funds to expand capacity at existing Parent-Child Home Program sites and to establish replication sites in cities and towns where high concentrations of low income families reside; provided further, that for grants awarded to establish the replication sites, the

department shall consider applications from school districts or social service agencies that demonstrate the capacity to replicate the home visiting program to serve area low income families; provided, that not less than \$100,000 shall be expended for the Parent-Child Home Program in the city of Pittsfield; and provided further, that the preference for the grants shall be given to applicants who demonstrate a commitment to maximize federal and local funding for the operation of the replication site ..... \$1,000,000

7030-1005 For early intervention individual tutorial literacy programs designed as a pre-special education referral and short term intervention for children who are at risk of failing to read in the first grade; provided, that such programs shall be research-based with proven long-term results, including identifying students in need of additional help not later than mid-first grade, providing ongoing training and support to program teachers, and including ongoing documentation and evaluation of results ..... \$1,910,788

7030-1500 For grants to head start programs ..... \$6,146,143

7032-0650 For School Link Services provider, the Pettengill House to provide advocacy counseling, referrals, emergency assistance and prevention education programs to the children and families of both Triton Regional and Amesbury Public Schools ..... \$25,000

7035-0002 For grants to provide and strengthen adult basic education services, including reading, writing and mathematics, to a diverse network of organizations which have demonstrated commitment and effectiveness in the provision of such services, and that are selected competitively by the department of education; provided, that such grants shall support the successful transition of students from other adult basic education programs to community college certificate and degree granting programs; provided further, that such grants shall be contingent upon satisfactory levels of performance as defined and determined by said department; provided further, that in no case shall grants be considered an entitlement to a grant recipient; provided further, that said department shall consult with the community colleges and other service providers in establishing and implementing content, performance and professional standards for adult basic education programs and services; and provided further, that not more than 7.5 per

Chap. 149

	cent of the funds appropriated herein may be expended for non-grant purposes .....	\$27,813,209
7035-0006	For reimbursements to regional school districts for the transportation of pupils; provided, that notwithstanding any general or special law to the contrary, the commonwealth's obligation shall not exceed the amount appropriated in this item .....	\$38,000,000
7035-0007	For reimbursements to cities, towns, regional vocational or county agricultural school districts, independent vocational schools, or collaboratives for certain expenditures for transportation of non resident pupils to any approved vocational-technical program of any regional or county agricultural school district, city, town, independent school or collaborative pursuant to section 8A of chapter 74 of the General Laws; provided, that upon receipt by the department of education of required transportation cost reports, the department shall reimburse no more than 50 per cent of the total cost certified by the department; provided, further, that these reports shall meet criteria established by the department; and provided, further, that, notwithstanding any general or special law to the contrary, the commonwealth's obligation shall not exceed the amount appropriated in this item .....	\$800,000
7051-0015	For the administration of the emergency food assistance program .....	\$747,000
7052-0006	For grants and reimbursements to cities, towns, regional school districts and counties under chapter 645 of the acts of 1948 and chapter 70B of the General Laws, for (a) educational, engineering, and architectural services for school districts, (b) surveys made of school building needs and conditions, (c) matching stabilization fund payments, (d) costs of leasing buildings for vocational programs and originally equipping and furnishing said buildings for vocational programs, and (e) payments associated with admission to a regional school district .....	\$19,076
7053-1909	For reimbursements to cities and towns for partial assistance in the furnishing of lunches to school children, including partial assistance in the furnishing of lunches to school children as authorized by chapter 538 of the acts of 1951, and for supplementing funds allocated for the special milk program; provided, that notwithstanding any general or special law to	

the contrary, payments so authorized in the aggregate for partial assistance in the furnishing of lunches to school children shall not exceed the required state revenue match contained in Public Law 79-396, as amended, cited as the National School Lunch Act and in the regulations implementing the act ..... \$5,426,986

7053-1925 For the school breakfast program for public and nonpublic schools and for grants to improve summer food programs during the summer school vacation period; provided, that of the sum appropriated in this item, not less than \$300,000 shall be expended for the summer food service outreach program and not less than \$200,000 shall be expended for the school breakfast outreach program, including reimbursement of municipal expenses; provided further, that within the summer food program, priority shall be given to extending such programs for the full summer vacation period and promoting increased participation in such programs; provided further, that the department of education shall solicit proposals from returning sponsors and school food authorities in time for implementation of such grant program during the summer of 2005; provided further, that such grants shall only be awarded to sponsors who can demonstrate their intent to offer full summer programs or increase participation; provided further, that the department shall require sufficient reporting from each grantee to measure the success of such grant program; provided further, that the department shall select grantees for the program authorized by this item not later than March 30, 2005, prior appropriation continued ..... \$2,266,575

7053-1927 For a supplement to the federally funded school breakfast program, whereby all children in schools receiving funds under the program shall be provided free, nutritious breakfasts at no cost to them; provided, that subject to regulations of the board that specify time and learning standards, breakfasts shall be served during regular school hours; provided, further, that participation shall be limited to those elementary schools mandated to serve breakfast pursuant to section 1C of chapter 69 of the General Laws where 60 per cent or more of the students are eligible for free or reduced-price meals under the federally funded school meals program; provided further, that the department shall select school sites for programs authorized by this item no later than November 15, 2004 and

	shall report to the house and senate committees on ways and means on the preliminary results of such grants no later than January 9, 2005; provided further, that nothing in this item shall give rise to enforceable legal rights in any party or an enforceable entitlement to services; and provided further, that nothing stated in this item shall be construed as giving rise to enforceable legal rights or enforceable entitlement to any services .....	\$2,011,060
7061-0008	For school aid to cities, towns, regional school districts, counties maintaining agricultural schools, independent vocational schools and independent agricultural and technical schools to be distributed pursuant to chapters 70 and 76 of the General Laws and section 3; provided, that \$175,000 of the funds allocated from this item to the city of Lawrence by section 3 shall be transferred to the University of Massachusetts at Lowell for its college preparation program; provided further, that each school district shall report annually to the department of education on its professional development expenditures, in a manner and form prescribed by the commissioner and consistent with the accountability requirements of the federal No Child Left Behind Act; and provided further, that the department of education shall report annually to the house and senate committees on ways and means on school districts' professional development spending .....	\$3,183,282,601
7061-0011	For a reserve to (1) meet extraordinary increases in the minimum required local contribution of a municipality as calculated pursuant to the requirements of section 3 of this act; provided, that a municipality seeking funds hereunder shall apply for a waiver from the department of revenue pursuant to the provisions of section 3 of this act; provided, further, that the commissioner shall issue a finding concerning such waiver applications within 30 days of the receipt thereof, after consulting with the commissioner of education regarding the merits of such application; provided, further, that preference shall be given to municipalities with an increase of greater than 25 per cent in required contribution to any of the districts to which the municipality belongs as a result of the new regional allocation methodology; (2) meet expenses associated with extraordinary increases in enrollment calculated on a per centage basis for such municipalities; provided, that preference shall be given to districts with enrollment growth	

of greater than 10 per cent from fiscal year 2000 through fiscal year 2005; (3) address the effects of reductions in per pupil chapter 70 aid between fiscal year 2003 and fiscal year 2005; provided, that preference in the awarding of such funds shall be given to districts which receive less than 20 per cent of their foundation budgets as chapter 70 aid, and which received reductions in chapter 70 aid of greater than 10% between fiscal year 2003 and fiscal year 2004; (4) assist regional school districts which, prior to fiscal year 2005, have assessed member towns using the provisions of their regional agreement, and which, in fiscal year 2005, will assess member towns using the required contributions calculated pursuant to chapter 70 of the General Laws and section 3 of this act; (5) assist municipalities with median income below the state average and equalized valuation per capita above the state average; provided further, that preference in the awarding of funds shall be given to municipalities with required local contributions greater than 80 per cent of their foundation budgets; (6) assist municipalities which pay a separate and additional tax to multiple fire districts within the municipality's borders, and which have required minimum contributions in excess of 80 per cent of the municipal district's foundation budget; (7) assist municipalities negatively impacted by shortfalls in federal impact aid for the education of children of families employed by the federal government on military reservations located within the town limits; (8) assist densely populated urban districts with high fixed costs and enrollment declines of greater than 3 per cent resulting in no increase in Chapter 70 aid; provided further, that notwithstanding the provisions of any general or special law to the contrary, assistance funded by this item shall only be available on a one time non-recurring basis; provided further, that the department shall make not less than 80 per cent of awards from this item not later than October 15, 2004; and provided further, that no funds distributed from this item to a municipality shall be considered base aid nor used in the calculation of the minimum required local contribution for fiscal year 2006 ..... \$6,870,000

7061-0012 For the reimbursement of extraordinary special education costs pursuant to section 5A of chapter 71B of the General Laws;

provided, that reimbursements shall be pro-rated such that expenses of this item do not exceed the amount appropriated herein; provided further, that upon receipt by the department of education of required special education cost reports from school districts, said department shall reimburse districts based on fiscal year 2004 claims; provided further, that not more than \$8,750,000 shall be used to continue and expand voluntary residential placement prevention programs between the department of education and other departments within the executive office of health and human services that develop community-based support services for children and their families; provided further, that of this \$8,750,000, not less than \$7,500,000 shall be made available to the department of mental retardation for the voluntary residential placement prevention program administered by that department; provided further, that not less than \$525,000 shall be expended for the costs of borrowing audiotaped textbooks by special needs students whose disabilities include, but shall not be limited to: blindness, visual impairments, learning disabilities such as dyslexia, or physical disabilities such as cerebral palsy that limit the use of standard print, and for the cost of an outreach program geared toward special education teachers, students and parents regarding the services of such program; provided further, that of that amount, funds may be expended for the purposes of training teachers and students; provided further, that not more than \$1,000,000 shall be expended for the monitoring and follow-up activities of the department's complaint management system, review and approval of local educational agency applications, and local school district's compliance with the part B requirements of the federal special education law, known as the Individuals with Disabilities Education Act, in the provision of special education and related services to children with disabilities; provided further, that such monitoring activities shall occur in each school district in cycles of not less than 3 years; provided further, that, in order to facilitate such monitoring, the department may allocate funds from this item to item 7061-0029, as necessary, pursuant to allocation plans submitted to the house and senate committees on ways and means 30 days prior to any such transfer; provided further, that not more than \$500,000 shall be expended to administer the reimbursements

funded herein; provided further, that notwithstanding section 5A of chapter 71B of the General Laws, as amended by this act, the department, at the discretion of the commissioner, may expend up to \$3,000,000 to reimburse districts for extraordinary increases in costs incurred during fiscal year 2005 which, except for the change in this act to reimbursing for prior year expenses, would be reimbursable under said section 5A; provided further, that reimbursements for current year costs shall be limited to school districts which experience increases of greater than 25 per cent from costs reimbursable under section 5A of chapter 71B of the General Laws and incurred during fiscal year 2004 to costs reimbursable under section 5A of chapter 71B of the General Laws and incurred during fiscal year 2005 or other cases of extraordinary hardship where special education costs increase in relationship to total district costs as the department may define through regulation or guidelines; provided further, that reimbursements for current year costs shall be allocated as one-time grants and shall not decrease reimbursements in the following fiscal year; provided further, that, the department shall conduct audits of fiscal year 2004 claims in no fewer than 50 districts; provided further, that if said claims are found to be inaccurate, the department shall recalculate the fiscal year 2005 reimbursement amount and adjust the third and fourth quarter payments to said districts to reflect the new reimbursement amount; and provided further, that said department shall file a report with the house and senate committees on ways and means no later than January 1, 2005 on the results of said audits ..... \$201,600,262

7061-0029 For the office of educational quality and accountability established pursuant to section 55A of chapter 15 of the General Laws; provided, that not less than \$95,000 shall be expended for the purpose of continuing a study on effective means of serving special education students through the Donahue Institute at the University of Massachusetts ..... \$2,696,971

7061-9010 For fiscal year 2005 reimbursements to certain cities, towns and regional school districts pursuant to section 89 of chapter 71 of the General Laws ..... \$37,700,000

7061-9200 For the education technology program ..... \$745,343

7061-9307 For the Student Tardiness and Attendance Review Team, the START program, so-called, a truancy prevention program in

	the Lowell School system designed to intervene and change patterns of truancy and absenteeism in grades 5 through 9, improving academic performance .....	\$100,000
7061-9400	For student and school assessment including the administration of the Massachusetts comprehensive assessment system (MCAS) exam established by the board of education pursuant to the provisions of section 1D and 1I of chapter 69 of the General Laws and for grants to school districts to develop portfolio assessments for use in individual classrooms as an enhancement to student assessment; provided, that as much as is practicable, especially in the case of students whose performance is difficult to assess using conventional methods such instruments shall include consideration of work samples and projects and shall facilitate authentic and direct gauges of student performance; provided further, that such portfolio assessments shall not replace the statewide standardized assessment based on the curriculum frameworks; provided further, that all school assessments shall center on the academic standards embodied in the curriculum frameworks and shall involve gauges which shall be relevant and meaningful to students, parents, teachers, administrators and taxpayers pursuant to the first paragraph of section 1L of chapter 69 of the General Laws; and provided further, that notwithstanding any general or special law to the contrary, assessment of proficiency in English shall be administered in English .....	\$18,679,946
7061-9404	For targeted intervention to schools and districts at risk of or determined to be underperforming in accordance with sections 1J and 1K of chapter 69 of the General Laws and for assistance and grants to cities, towns and regional school districts to provide targeted remediation programs in English and math to high school students in the classes of 2003, 2004, 2005 and 2006 scoring in level one on the Massachusetts Comprehensive Assessment System (MCAS) exam established by the board of education pursuant to the provisions of sections 1D and 1I of said chapter 69; provided, that the department and districts shall ensure that services are available to students with disabilities; provided further, that, in awarding targeted remediation funds, preference may be given to schools and districts at risk of or determined to be under-performing in accordance with said sections 1J and 1K	

of said chapter 69; provided further, that the purpose of this program shall be to improve students' performance on the MCAS exam through replication of services and educational strategies with proven results as determined by the department of education that may include but shall not be limited to: integrated tutoring and mentoring programs, supplemental web-based tutorial programs that are diagnostic and prescriptive, weekend and school vacation programs focused on English and math remediation, the English and math components of comprehensive after school programs, and the remediation component of summer programs; provided further, that such programs shall supplement currently funded local, state, and federal programs at the school or district; provided further, that such grants and assistance shall be used solely for the academic portions of such programs, and shall focus on the acquisition of skills in English and math needed to pass the MCAS; provided further, that funds shall be expended for a competitive grant program to fund academic support and college transition services to be implemented in fiscal year 2005, and operated by public institutions of higher learning or by public-private partnerships in the commonwealth, for students in the graduating classes of 2003 and 2004 who have completed high school but have not yet obtained a competency determination as defined in section 1D of said chapter 69 as measured by the MCAS assessment instrument authorized by said section 1I of said chapter 69, but who are working to pass the English and math MCAS tests, obtain a competency determination, and earn a high school diploma; provided further, that for the purpose of said programs, appropriated funds may be expended through August 31, 2005 to allow for summer remediation programs; provided further, that funds shall be expended for a competitive grant program to fund so-called Pathways programs targeting eleventh and twelfth graders, instituted by local school districts, public institution of higher education and qualified public and private educational services organization and One Stop Career Centers including, but not limited to, school-to-work connecting activities creating worksite learning experiences for students as an extension of the classroom, outreach programs for students who will need post-twelfth grade remediation to attain the skills necessary to

pass MCAS, and counseling programs to educate parents and high school students on post-twelfth grade remediation options; provided further, that funds shall be expended for a competitive grant program, guidelines for which shall be developed by the department of education, for intensive remediation programs, in communities with students in the graduating classes of 2003, 2004, 2005 and 2006 who have not obtained a competency determination on either the tenth grade English or math MCAS exams; provided further, that the department of education may give preference for such assistance to those districts with a high percentage of high school students scoring in level one on the MCAS exam in English and math; provided further, that eligible applicants shall include individual high schools, and those institutions which shall have partnered with a high school or group of high schools, including but not limited to, institutions of public and private higher education, providers of adult basic education services, career centers, other public and private educational services organizations, including, but not limited to, JFY. Net, and after-school programs with a structured academic component and focused on MCAS remediation operated by public and non-public entities including, but not limited to, members of the national alliance of boys and girls clubs; provided further, that no district shall receive a grant from this appropriation until said district submits to the department of education a comprehensive district plan pursuant to the provisions of said section 1I of said chapter 69, to improve performance of all student populations including, but not limited to, students with disabilities; provided further, that no less than \$4,000,000 shall be expended for targeted intervention in districts at risk of or determined to be underperforming in accordance with said sections 1J and 1K of said chapter 69; provided further, that targeted intervention funds shall not be expended in any school or district that fails to file a comprehensive district plan pursuant to the provisions of said section 1I of said chapter 69 of the General Laws; provided further, that targeted intervention funds in said districts may be expended on preventive remediation in grades eight through ten, on any student who failed the English or math MCAS in the eighth grade; provided, further, that targeted intervention funds may

be expended on grants which allow for the implementation of whole school reform in said schools and districts; provided, that the department shall only approve reform plans with proven, replicable results in improving student performance; provided, further, that no funds shall be expended on targeted intervention unless the department shall have approved, as part of the comprehensive district improvement plan, a professional development plan which provides for professional development among teachers of the same grade levels and teachers of the same subject matter across grade levels, and which focuses on improving skills in the teacher's subject areas, and on providing teachers with research based strategies for increasing student success; provided, further, that funds from any targeted intervention grant may be used to partially offset the cost of said professional development: provided, that preference in the awarding of said funds shall be given to professional development in math and English content skills, with a proven record of success, and to intervention strategies which are research based and replicable; provided further, that any grant funds distributed from this item to a city, town or regional school district shall be deposited with the treasurer of such city, town, or regional school district and held in a separate account and shall be expended by the school committee of such city, town, or regional school district without further appropriation, notwithstanding any general or special law to the contrary; provided further, that not less than \$20,000 shall be expended for a Brown Eyes Blue Eyes Pilot Project, linking performance to perception to improve MCAS scores by teaching children how to recognize faulty stereotypes inherent in racism for schools in Falmouth, Mashpee, Bourne, Barnstable and Springfield; provided further, that not less than \$60,000 be expended to Casa Dominican in Lawrence; provided further, that not less than \$1,000,000 shall be transferred to JFY Networks, formerly Jobs for Youth, for a matching grant for the purposes of enhancing student performance on the Massachusetts Comprehensive Assessment System examination through instructional computer software; provided further, that not more than \$1,000,000 be expended for English language acquisition professional development as part of an initiative designed to

improve the academic performance of English language learners and effectively implement sheltered English immersion as outlined in chapter 386 of the acts of 2002; provided further, that not less than \$60,000 shall be expended for Centro Latino de Chelsea to provide adult basic education services in the city of Chelsea; provided further, that the department shall issue a report, no later than February 1, 2005 and annually thereafter as a condition of continued funding under this account, in collaboration with the board of higher education, describing MCAS support programs for the graduating classes of 2003, 2004, 2005 and 2006 funded by items 7061-9404 and 7027-0019, school to work accounts, institutions of public higher education, and other sources, including federal sources; provided further, that such report shall include but not be limited to, the number of students eligible to participate in such programs, the number of students participating in such programs, the number of students who have passed the MCAS assessment and obtained a competency determination through these programs, but not met local graduation requirements, and the number of students who have passed the MCAS assessment and obtained a competency determination through these programs and met local graduation requirements; provided further, that said report shall be provided to the chairmen of the house and senate ways and means committees and the house and senate chairs of the joint committee on education, arts, and humanities; and provided further, that the department may expend up to \$350,000 to administer programs funded herein . . . . . \$14,140,001

7061-9604 For teacher preparations . . . . . \$1,531,271

7061-9612 For the school of excellence program at the Worcester Polytechnic Institute; provided, that every effort shall be made to recruit and serve equal numbers of male and female students; provided further, that sending districts of students attending the academy shall not be required to expend any funds for the cost of these students while in attendance at the academy; provided further, that the Massachusetts Academy of Mathematics and Science shall be obligated to provide professional development activities at the school located at Worcester Polytechnic Institute, including salary and benefits for master teachers and visiting scholars; provided further, that the department of education shall provide a subsidy to the

	Worcester Polytechnic Institute to operate a school of excellence in mathematics and science; and provided further, that the academy shall file a report with the joint committee on education and the house and senate committees on ways and means by February 1, 2005 detailing said professional development activities . . . . .	\$1,199,231
7061-9614	For the alternative education grant program established pursuant to section 1N of chapter 69 of the General Laws, as established in this act; provided that the commissioner shall allocate funds for both subsection A and B of said section 1N of said chapter 69 . . . . .	\$1,000,000
7061-9619	For the purpose of funding the Benjamin Franklin Institute of Technology; provided, that the Benjamin Franklin Institute of Technology shall be granted access to the Massachusetts education computer system; and provided further, that the Benjamin Franklin Institute of Technology shall be permitted to join the state buying consortium . . . . .	\$1
7061-9621	For the administration of a grant program for gifted and talented school children; provided, that the funds appropriated in this item shall be in addition to any federal funds available for such program; provided further, that priority shall be given to those grant applications that address the needs of students who are identified by any of the following criteria: (1) the result of a standardized aptitude examination which is 3 or more standard deviations above the mean; (2) an evaluation by the child's teachers that the child does perform, or is capable of performing satisfactorily at 2 or more grade levels above the child's chronological age; or, (3) a score on the math or verbal Scholastic Aptitude Test by a child of no more than 13 years of age which is equal to, or greater than, the average on either test obtained by college-bound high school juniors; and provided further, that such programs may be made avail able by a city, town or regional school district . . . . .	\$99,999
7061-9626	For grants and contracts with youth-build programs for the purposes of providing comprehensive youth-build services . . .	\$1,200,000
7061-9634	For a transfer of this item to the Massachusetts Service Alliance, which shall be solely responsible for administering a grant program for public and private agencies with mentoring programs for the recruitment and training of mentors and for other supporting services including, but not limited to, academic support services; provided, that the department of	

education shall transfer the amount appropriated in this item to the Massachusetts Service Alliance for this purpose of such grants; provided further, that in order to be eligible to receive funds from this item, each public or private agency shall provide a matching amount equal to \$1 for every dollar disbursed from this item; provided further, that funds may be expended to support the mentoring activities of the planned learned achievement for youth program; provided further, that said Massachusetts Service Alliance shall submit a report detailing the expenditure of such funds and the amount and source of matching funds raised to the secretary of administration and finance and the house and senate committees on ways and means not later than December 29, 2004 ..... \$287,000

*Board of Early Education and Care.*

7062-0000 For the maintenance and operation of the board of early education and care; provided, that funding from this item may be used to develop an implementation plan for a workforce development system, pursuant to section 5 of chapter 15D of the General Laws; provided further, that funds from this item shall be expended on the development of a kindergarten readiness assessment system that is educationally sound; provided further, that funds from this item shall be expended on the development of a comprehensive evaluation system for all early education and care programs in the commonwealth; provided further, that funds shall be expended on this item for planning grants for communities developing plans for universal early education and care for pre-school children pursuant to the provisions of this act; provided further, that for the purposes of such planning grants, appropriated funds may be expended through December 31, 2005; and provided further, that said board may enter into interagency service agreements with other state agencies for the administration of early education and care services ..... \$600,000

*Board of Higher Education.*

7066-0000 For the operation of the board of higher education; provided, that the board shall recommend savings proposals that permit institutions of public higher education to achieve administrative

and program cost reductions, resource re-allocation and program re-assessment and utilize resources otherwise available to such institutions; provided further, that in order to meet the estimated costs of employee fringe benefits provided by the commonwealth on account of employees of the Massachusetts State College Building Authority and the University of Massachusetts Building Authority, and in order to meet the estimated cost of heat, light, power and other services, if any, to be furnished by the commonwealth to projects of these authorities, the boards of trustees of the state colleges and the University of Massachusetts shall transfer to the General Fund from the funds received from the operations of the projects such costs, if any, as shall be incurred by the commonwealth for these purposes in the current fiscal year, as determined by the appropriate building authority, verified by the chancellor of higher education and approved by the secretary of administration and finance . . . . .

		\$1,922,714
7066-0005	For the commonwealth's share of the cost of the compact for education . . . . .	\$61,978
7066-0009	For the New England Board of Higher Education . . . . .	\$367,402
7066-0015	For the community college workforce training incentive grant program established in section 15F of chapter 15A of the General Laws . . . . .	\$2,900,000
7066-0016	For a program of financial aid to support the matriculation of certain persons at public and private institutions of higher learning; provided, that only persons in the custody of the department of social services pursuant to a care and protection petition upon reaching the age of 18, or persons in the custody of the department matriculating at such an institution at an earlier age, shall qualify for such aid; provided further, that no such person shall be required to remain in the custody of the department beyond age 18 to qualify for such aid; provided further, that this aid shall not exceed \$6,000 per recipient per year; and provided further, that this aid shall be granted after exhausting all other sources of financial support . . . . .	\$850,000
7070-0031	For the McNair component of the financial assistance program to increase access to public and independent institutions of higher education for students who meet certain income eligibility standards developed by the chancellor of higher education and for students with serious physical impairments,	

	known as the Ronald E. McNair education opportunity program .....	\$1,965,638
7070-0065	For a scholarship program to provide financial assistance to Massachusetts students enrolled in and pursuing a program of higher education in any approved public or independent college, university, school of nursing, or any other approved institution furnishing a program of higher education; provided, that the Massachusetts state scholarship office shall expend not less than \$13,495,295 for Foster Furcolo community college access grants to ensure that no Massachusetts resident enrolled in and pursuing an associate's degree in any of the community colleges pays more than \$500 in tuition and fees net of any federal or state scholarship or tax credit; provided further, that any resident whose expected family contribution level, as determined according to the federal methodology established pursuant to Part F of Title IV of the Higher Education Act of 1965, as amended, is not more than \$2,250, shall incur no net tuition and fee costs after deducting any federal or state scholarship or tax credit from financial need as calculated by the state scholarship office; provided further, that said residents who are not fully eligible for the federal HOPE tax credit based on their exceeding maximum income eligibility limits, shall not be eligible for the grants; provided further, that not less than \$9,896,550 shall be expended for state college access grants; provided further, that any Massachusetts resident enrolled in and pursuing a bachelor's degree in any of the state colleges whose expected family contribution level, as determined according to the federal methodology established pursuant to said Part F of Title IV of the Higher Education Act of 1965, as amended, is not more than \$2,000, shall incur no net tuition and fee costs after deducting any federal or state scholarship or tax credit from financial need as calculated by the state scholarship office; provided further, that not less than \$8,697,220 shall be expended for a program of needs-based financial assistance for Massachusetts residents enrolled in and pursuing a program of higher education in the University of Massachusetts; provided further, that \$3,148,902 shall be expended for the part-time student grant program; provided further, that of the sum appropriated in this item, not less than	

\$427,351 shall be obligated for the purposes of the Massachusetts plan, pursuant to section 5C of chapter 15C of the General Laws; provided further, that the Massachusetts state scholarship office shall expend not less than \$18,623,508 to provide for matching scholarship grants to needy Massachusetts students at participating Massachusetts independent regionally accredited colleges, universities, and schools of nursing; provided further, that not less than \$170,940 shall be made available to provide financial assistance for Massachusetts residents enrolled at public higher education institutions to participate in the Washington Center-Massachusetts Initiative Academic Internship program; provided further, that except as otherwise provided in this act, all financial assistance mentioned previously in this item shall be distributed to students demonstrating the greatest need as determined by an eligibility index used by the state scholarship office; provided further, that students awarded full or partial scholarships under the Christian A. Herter Memorial Scholarship Program, established in section 16 of chapter 15A of the General Laws, who have matriculated in a program of higher education outside the commonwealth may continue to receive the scholarship aid guaranteed by said program; provided further, that the state scholarship office is authorized to expend monies for the public service awards as established in said section 16 of said chapter 15A; provided further, that the chancellor of higher education, in coordination with the Massachusetts state scholarship office, shall adopt regulations governing the eligibility and the awarding of financial assistance; provided further, that not more than \$1,589,945 shall be expended on the administration of the scholarship program; provided further, that not less than \$2,249,216 shall be provided for grants to residents of the commonwealth who are working as paraprofessionals in public schools of the commonwealth while pursuing a bachelor's degree at a public college or university in the commonwealth in order to become a certified teacher in Massachusetts; and provided further, that eligibility shall be limited to persons who have worked as a paraprofessional in the public schools of the commonwealth for a minimum of 2 years before receipt of such grant, or who are

	enrolled in and pursuing courses of study that will lead to certification as a teacher in bilingual education, special education, math, science, or foreign languages, and who commit to teach and actually teach for such period as the board of higher education may determine in the public schools of the commonwealth upon graduation and certification pursuant to section 38G of chapter 71 . . . . .	\$82,373,454
7077-0023	For a contract with the Tufts School of Veterinary Medicine; provided, that funds appropriated in this item shall be expended, in accordance with the Massachusetts resident veterinary tuition remission plan submitted January 8, 1998, for supportive veterinary services provided to the commonwealth; provided further, that prior year costs may be paid from this item; provided further, that funds appropriated herein shall support bioterrorism prevention research related to diseases that can be transmitted from animals to humans, in consultation with Massachusetts emergency authorities; and provided further, that said school shall work in consultation with the Norfolk County Agricultural School on veterinary programs . . . . .	\$3,304,000

*University of Massachusetts.*

7100-0200 For the operation of the University of Massachusetts; provided, that notwithstanding any general or special law to the contrary, the university may establish and organize auxiliary organizations, subject to policies, rules and regulations adopted by the board, to provide essential functions which are integral to the educational mission of the university; provided further, that notwithstanding any general or special law to the contrary, the university may enter into leases of real property without prior approval of the division of capital asset management and maintenance; provided further, that the amount expended in fiscal year 2005 for the University of Massachusetts at Amherst Cranberry Station at Wareham shall not be less than the amount expended for that purpose in fiscal year 2004; provided further, that such funds shall be expended in accordance with plan reviewed and recommended by the University of Massachusetts at Amherst Cranberry Experiment Station Board of Oversight; provided further, that not less than \$500,000 shall be expended so the

Center for Portuguese Studies shall operate at the University of Massachusetts at Dartmouth; provided further, that not less than \$100,000 shall be expended for the University of Massachusetts at Amherst school of food science for the evaluation and development of science based food policy and regulation; provided further, that \$100,000 shall be expended for costs associated with the relation of the Demonstration School previously located at the West Campus of the University of Massachusetts at Lowell; provided further, that the School for Marine Environmental Science Technology and Fisheries shall operate at the University of Massachusetts at Dartmouth; provided further, that the sum expended for the UMass Extension in fiscal year 2005 shall be adjusted only in direct proportion to university budget adjustments to other academic programs of the University of Massachusetts at Amherst; provided further, that such funds shall be expended in accordance with a plan reviewed by the UMass Extension Board of Public Overseers; provided further, that not less than \$50,000 shall be expended for the 4-H program; provided further, that not less than \$250,000 shall be expended for labor studies programs at the Amherst, Boston, Dartmouth and Lowell campuses; provided further, that no funds appropriated in this item may be used for the issuance or renewal of student or employee identification cards which display a student or employee's social security number; provided further, that funding for the William Joiner Center for the Study of War and Social Consequences shall be funded at an amount not less than was allocated in the previous fiscal year; provided further, that not less than an additional \$30,000 shall be appropriated for the Hispanic Writers in the Schools program; and provided further, that the Mauricio Gaston Institute for Latino Community and Public Policy shall be funded at fiscal year 2003 levels . . . . . \$337,864,464

7100-0300 For the operation of the toxics use reduction institute program at the University of Massachusetts at Lowell, in accordance with section 6 of chapter 21I of the General Laws . . . . . \$1,225,217

7100-0350 For an assessment at the toxic use reduction institute on the feasibility of adopting chemical and/or technological alternatives for the following toxic or hazardous substances: lead, formaldehyde, trichloroethylene, perchloroethylene, dioxins

and furans, hexavalent chromium, organophosphate pesticides, pentabromodiphenyl ether (Penta BDE), 2,4, Dichlorophenoxyacetic acid (2,4,D) and di-(2-ethylhexyl)phthalate (DEHP); provided, that said assessment shall, for each named toxic or hazardous substance, identify: (1) significant uses of the toxic substance in the commonwealth in manufacturing, consumer products and any other applications, (2) potential human health and environmental impacts, (3) any and all alternative chemicals and/or technologies, both proven and emergent, and an analysis of their potential to serve as substitutes for one or more of the toxic or hazardous substances list above, which shall include a assessment of: (a) specific applications of any alternative chemical and/or technology, (b) potential impacts on the environment, human health, workers, employment level and economic competitiveness of the commonwealth from adopting and implementing any alternative chemical and/or technology as substitutes, (c) the economic opportunities or feasibility of adopting and implementing any alternative chemical and/or technology as a substitute including, but not limited to, consideration of the potential effects on capital, operating and production unit costs, and product price, to result from said substitution; and provided further, that the Institute shall report its findings to the joint committee on natural resources and agriculture by July 1, 2005 . . . . . \$250,000

7100-0500 For the operation of the board of higher education's Commonwealth College honors program at the University of Massachusetts at Amherst . . . . . \$1,715,000

*State Colleges.*

7109-0100 For Bridgewater State College; provided, that not less than \$245,814 shall be expended for the operation of the John Joseph Moakley Center for Technological Applications at Bridgewater State College; and provided further, that the initiative shall be conducted on the site of the college for the purposes of technological applications to classroom teaching and initiatives in distance learning and economic development in conjunction with business and industry in southeastern Massachusetts . . . . . \$29,536,751

---

**Chap. 149**

7110-0100 For Fitchburg State College .....	\$22,251,457
7112-0100 For Framingham State College; provided, that not less than \$160,000 shall be expended for the regional economic research center; provided further, that \$130,000 shall be expended for the operation of the commonwealths' global education centers .....	\$18,444,192
7113-0100 For the Massachusetts College of Liberal Arts .....	\$11,021,585
7113-0105 For the Massachusetts College of Liberal Arts; provided that not less than \$250,000 shall be expended for capacity building at the Massachusetts College of Liberal Arts in conjunction with a pilot wireless learning initiative in conjunction with the Massachusetts Technology Collaborative; and provided further, that not less than \$250,000 shall be expended for the assessment and evaluation of the higher education resources available to residents of Berkshire County .....	\$500,000
7114-0100 For Salem State College .....	\$29,375,729
7114-0101 For a reserve for the operation and maintenance costs associated with the acquisition of the GTE/Sylvania property located in the city of Salem .....	\$701,383
7114-0105 For the aquaculture program at Salem State College established pursuant to section 274 of chapter 38 of the acts of 1995 .....	\$200,000
7115-0100 For Westfield State College .....	\$18,439,563
7116-0100 For Worcester State College .....	\$18,628,557
7116-0101 For the Latino Education Institute at Worcester State College .....	\$200,000
7116-0105 For a matching grant for improvements to rockwood field located at Worcester State College; provided, that said match shall be one dollar of private funds for every dollar of state funds raised through alumni contributions; provided, that no funds shall be expended until an equal or greater amount has been raised through alumni contribution and committed by Worcester State College foundation for said project; and provided further, that said college shall work with the city of Worcester .....	\$125,000
7117-0100 For the Massachusetts College of Art .....	\$9,071,228
7118-0100 For the Massachusetts Maritime Academy; provided further, that \$325,000 shall be expended for a design construction grant to develop an alternative energy source with Massachusetts Technology Collaborative .....	\$9,733,263

*Community Colleges.*

7502-0100 For Berkshire Community College .....	\$7,725,620
7503-0100 For Bristol Community College .....	\$12,425,614
7504-0100 For Cape Cod Community College; provided, that not less than \$35,000 be expended for a feasibility study on student housing on campus to address both lack of affordable housing and workforce shortages in the region .....	\$9,133,600
7504-0101 For the operation of an environmental technology, education, and job training partnership through the Cape Cod Community College; provided, that the college shall coordinate said partnership with the Massachusetts Maritime Academy and the University of Massachusetts at Dartmouth; provided further, that the initiative shall be conducted at the Massachusetts military reservation, or at any site on Cape Cod determined by the college to be suitable for the purposes of on-site education and training in the use of alternative technologies to clean up designated superfund sites; provided further, that preference shall be given to local applicants; and provided further, that the executive office of environmental affairs and the University of Massachusetts at Dartmouth shall participate in the testing and evaluation of innovative technologies .....	\$111,994
7505-0100 For Greenfield Community College .....	\$7,453,556
7506-0100 For Holyoke Community College; provided, that funds may be expended for the operation of the Holyoke Home Information Center .....	\$14,674,492
7507-0100 For Massachusetts Bay Community College .....	\$11,443,374
7508-0100 For Massasoit Community College .....	\$15,950,502
7509-0100 For Mount Wachusett Community College; provided, that \$100,000 shall be expended for the Latino education and family development program .....	\$9,291,583
7510-0100 For Northern Essex Community College .....	\$15,163,084
7511-0100 For North Shore Community College, including the post secondary programs of the Essex Agricultural and Technical Institute operated by North Shore Community College .....	\$16,541,568
7511-0101 For the establishment and administration of the public policy institute and resource center at North Shore Community College .....	\$250,000
7512-0100 For Quinsigamond Community College .....	\$11,956,456
7514-0100 For Springfield Technical Community College .....	\$18,842,171

---

**Chap. 149**

7514-0102 For the Massachusetts Center for Telecommunications and Information Technology through the Springfield Technical Community College Assistance Corporation, as established by section 125 of chapter 273 of the acts of 1994; provided, that the amount appropriated in this item shall include, but not be limited to, operating and maintaining cable television programming, distance learning curricula, telecommunications-intensive company facilities, and a small business incubator; provided further, that funds shall be allocated for a reserve for the operation and maintenance expenses incurred by Springfield Technical Community College associated with the acquisition of the Digital property; provided further, that the college may expend revenues in an amount not to exceed \$575,000 received from rent, utility, and other charges for the operation and maintenance of the property; and provided further, that funds shall be encumbered for an emergency reserve for unanticipated operating and maintenance expenses of Springfield Technical Community College in the acquisition of the Digital property .....	\$535,206
7515-0100 For Roxbury Community College .....	\$8,827,356
7515-0120 For the operation of the Reggie Lewis Track and Athletic Center at Roxbury Community College .....	\$700,000
7515-0121 For the Reggie Lewis Track and Athletic Center at Roxbury Community College; provided, that the college may expend an amount not to exceed \$529,843 received from fees, rentals, and facility expenses associated with the running and operation of national track meets, high school track meets, high school dual meets, Roxbury Community College athletic events, other special athletic events, conferences, meetings, and programs; and provided further, that only expenses for contracted services associated with these events shall be funded from this item .....	\$529,843
7516-0100 For Middlesex Community College .....	\$15,403,816
7518-0100 For Bunker Hill Community College; provided, that \$108,000 shall be obligated for the life focus center .....	\$15,722,114
7520-0424 For a health and welfare reserve for eligible personnel employed at the community and state colleges .....	\$4,382,445

**EXECUTIVE OFFICE OF PUBLIC SAFETY AND HOMELAND SECURITY.**

*Office of the Secretary.*

8000-0000 For the office of the secretary, including the administration of the committee on criminal justice, the highway safety bureau to provide matching funds for a federal planning and administration grant pursuant to 23 U.S.C. section 402, and the hate crimes awareness program; provided, that not less than \$200,000 shall be expended for the creation of an undersecretary of forensic services and forensic support services; provided further, that not less than \$25,000 shall be expended to provide additional Milton Police patrols for the portion of the Neponset River bicycle path in the town of Milton; provided further, that not less than \$50,000 shall be expended for a commission to be known as the State Resilience Development and Anti-Terrorism Commission which shall be comprised of 5 members who shall be appointed by the Inspector General; provided further, that the commission shall be responsible for researching, developing, and coordinating resilience-building programs and protocols, including, but not limited to, risk communication protocols, community strategies to maximize public adherence to disaster contingency plans, training for teachers and school personnel to guide students through disasters and tools for first responders to maximize their effectiveness during and after a crisis; provided further, that the commission shall approve and audit all state, local and regional programs and ensure that all state, local and federal funding and grants are appropriately expended; provided further, that the commission shall analyze state and local preparedness for terrorism to ensure that the state public health infrastructure is prepared to adequately respond to the psychological and physical consequences across a continuum of possible terrorism events; provided further, that the commission shall ensure that state and local disaster planners address psychological and physical consequences in their planning and preparedness and in their response to pre-event, event and post-event phases of terrorist attacks; provided further, that due consideration shall be given to needs associated with different types of terrorism events and to needs for various segments of the population; provided further, that due consideration shall also be given to

providing adequate state and local prioritization and funding of resources and support for psychological preparedness and response.; provided further, that the commission shall develop strategies for encouraging state public health and mental health agencies to closely collaborate in the development of integrated, science-based programs and protocols designed to increase psychological resilience and mitigate distress reactions and maladaptive behaviors to a conventional, biological, chemical or radiological attack in the commonwealth; provided further, that the commission may hire staff, contract and enter into agreements for the operation of the commission; and provided further, that the commission may seek grants and other funding sources for the operation of the commission . . . . . \$1,951,429

General Fund . . . . . 15.0%

Highway Fund . . . . . 85.0%

8000-0010 For community policing grants to be administered by the executive office of public safety; provided, that no such grants shall be awarded to the department of state police; provided further, that any community earmarked to receive funds in item 8000-0010, in section 2, of chapter 26 of the acts of 2003, including funds allocated by section 67 of chapter 140 of the acts of 2003, shall receive 100 per cent of the amount so earmarked in fiscal year 2005; provided further, that grants shall only be expended on items that are related to community policing activities, programs, purchases or construction; provided further, that grant funds shall not be expended on food and beverages, recruit training academy tuition, salaries and benefits for non-community policing personnel and payments for non-related overtime; and provided further, that not later than March 15, 2005 the executive office of public safety shall submit a report to the house and senate committees on ways and means detailing the amount of grants awarded to these grant recipients and descriptions of these grants . . . . . \$20,267,596

8000-0040 For police career incentives to reimburse certain cities and towns for career incentive salary increases for police officers . . . . . \$46,092,122

8000-0060 For the costs associated with implementation of chapter 228 of the acts of 2000; provided, that the secretary of public safety may allocate funds appropriated in this item to agencies within the executive office of public safety . . . . . \$150,000

---

## Chap. 149

8000-0202	For the purchase and distribution of sexual assault evidence collection kits .....	\$55,861
8000-2004	For security costs provided by the executive office of public safety; provided, that the executive office may collect an amount not to exceed \$11,000,000 from the city of Boston in reimbursements for the purpose of funding security costs associated only with hosting the Democratic National Convention .....	\$11,000,000

### *Office of Chief Medical Examiner*

8000-0105	For the operation of the office of the chief medical examiner established pursuant to chapter 38 of the General Laws; provided, that not less than \$850,000 shall be expended for toxicology testing and results .....	\$6,126,377
8000-0106	For the operation and related costs of the state police crime laboratory; provided, that the agency shall enter into agreements with the various district attorneys to provide forensic services for criminal cases brought forth by the commonwealth; provided further, that the agency shall contract with a public institution to conduct testing for criminal cases; and provided further, that the practices and procedures of the state police crime laboratory shall be informed by the recommendations of the Forensic Sciences Advisory Board .....	\$6,232,118
8000-0122	The office of the chief medical examiner may expend for its operations an amount not to exceed \$1,000,000 in revenues collected from fees for services provided by the chief medical examiner; provided, that notwithstanding any general or special laws to the contrary, for the purposes of accommodating timing discrepancies between the receipt of retained revenues and related expenditures, the agency may incur expenses and the comptroller may certify for payment amounts not to exceed the lower of this authorization or the most recent revenue estimate as reported in the state accounting system .....	\$1,000,000

### *Criminal History Systems Board.*

8000-0110	For the operation of the criminal history systems board; provided, that the board shall fund 1 administrative assistant who shall	
-----------	-----------------------------------------------------------------------------------------------------------------------------------	--

be employed in the victim services unit of the board for the continued and enhanced operation of the post-conviction victim and witness certification program operated pursuant to chapter 258B and clause (c) of the first paragraph of section 172 of chapter 6 of the General Laws; provided further, that said victim services position shall be in addition to any such positions approved as of February 1, 1998; provided further, that not more than \$75,000 shall be expended for the purpose of enabling local housing authorities access to criminal offense information when qualifying applicants for state-assisted housing; provided further, that the board shall, not later than September 30, 2004, adopt regulations to: a) assure that the distribution of criminal offender record information relates to the individual for whom the request has been made, b) afford practical assistance in corrections to an criminal offender record information report to an individual who submits evidence to the board that one or more charges in a criminal offender record information report distributed by the board and purportedly relating to that individual, in fact, do not relate to that individual, c) limit the distribution of criminal offender record information to conviction data and data regarding any pending criminal charge, except as otherwise authorized by law, and d) require that any entity other than a criminal justice agency that receives a criminal offender record information report from the board as to an individual and, as a result of that report, is inclined to make an adverse decision as to the individual, shall, before making a final decision, afford the individual an opportunity to dispute the accuracy and relevance of the criminal offender record information report; and provided further, that not later than February 28, 2005, the board shall file a report with the house and senate committees on ways and means detailing the steps the board has taken to implement the preceding proviso and the success of those steps in improving the accuracy of the criminal offender record information system . . . . . \$2,560,647

Highway Fund . . . . . 50.0%  
General Fund . . . . . 50.0%

- 8000-0180 For the implementation of the Massachusetts instant recording and check system . . . . . \$400,000
- 8000-0190 For a retained revenue account for the criminal history systems board; provided, that said board may expend not more than

Chap. 149

	\$185,000 from fees collected for criminal offender record information requests; provided, that for the purpose of accommodating timing discrepancies between the receipt of retained revenues and related expenditures, the department may incur expenses and the comptroller may certify for payment amounts not to exceed the lower of this authorization or the most recent revenue estimate as reported in the state accounting system .....	\$185,000
8000-1122	For the telecommunications and information technology costs of the criminal history systems board; provided, that no funds provided in this item shall be expended in the KK subsidiary .....	\$2,842,661

*Sex Offender Registry Board.*

8000-0125	For the operation of the sex offender registry program, including, but not limited to, the costs of maintaining a computerized registry system and the classification of persons subject to the registry .....	\$3,596,891
8000-0225	The sex offender registry board may expend an amount not to exceed \$750,000 from revenues collected from sex offender registration fees for the purpose of expediting the final classification of sex offenders and reducing the current case backlog; provided, that \$200,000 shall be expended for interagency service agreements between the sex offender registry board and the various district attorneys in order to defray the costs incurred by said district attorneys from proceedings relative to the civil commitment of sexually dangerous persons including, but not limited to, probable cause hearings and trials initiated pursuant to sections 12 through 15, inclusive, of chapter 123A of the General Laws ...	\$750,000

*State Police.*

8100-0000	For the administration and operation of the department of state police; provided, that the department shall expend funds from this item for the purposes of maximizing federal grants for the operation of a counter-terrorism unit; provided further, that the department shall maintain the division of field services which shall include, but not be limited to, the bureau of metropolitan district operations; provided further, that not fewer than 40 officers may be provided to the department of	
-----------	-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	--

conservation and recreation for the purpose of patrolling the watershed property of the department of conservation and recreation; provided further, that funds shall be expended from this item for the administration and operation of an automated fingerprint identification system and the motor carrier safety assistance program; provided further, that not fewer than 5 officers shall be provided to the disabled persons protection commission for the purpose of investigating cases of criminal abuse; provided further, that the department shall enter into an interagency agreement with the department of conservation and recreation to provide police coverage on department properties and parkways; provided further, that the creation of a new or the expansion of the existing state-wide communications network shall include the office of law enforcement in the executive office of environmental affairs department of fisheries, wildlife and environmental law enforcement at no cost to, or compensation from, that office; provided further, that not less than \$2,328,946 shall be expended for the payroll costs of the state police directed patrols; provided further, that any community that was selected to receive earmarked funds in fiscal year 2004 shall receive 100 per cent of the amount so earmarked in fiscal year 2005; provided further, that not less than \$750,000 shall be expended to curb gang-related activities in the cities of Boston, Brockton, Chelsea, Lawrence, Revere, Springfield and Worcester; and provided further, that the department may expend funds appropriated in this item for the administration of budgetary, procurement, fiscal, human resources, payroll and other administrative services of the office of the chief medical examiner, the criminal justice training council and the criminal history systems board . . . . . \$196,375,102

Highway Fund . . . . . 88.20%

General Fund . . . . . 11.80%

8100-0006 For private police details; provided, that the department may expend up to \$13,500,000 in revenues collected from fees charged for private police details and for the costs of administering such details; and provided further, that notwithstanding any general or special law to the contrary, the department of state police may incur, and the comptroller may certify for payment, expenses and liabilities during fiscal year 2005 to be charged to this item in an amount not to exceed the

	lower of this authorization or the most recent revenue estimate as reported in the state accounting system for the purposes stated in this item to accommodate the delayed receipt of revenues authorized to be retained in this item during fiscal year 2005 .....	\$13,500,000
8100-0007	For the overtime of State police officers including the operation of the drug enforcement task force; provided, that the department shall furnish, on a quarterly and annual basis, a report to the house and senate committees on ways and means outlining by category, division and cost in which overtime hours were worked; provided further, that the report shall also include a calculation reviewing the reduced number of overtime hours worked and savings to the department resulting from 2 new state police classes pursuant to item 8100-0515 .....	\$11,060,782
	Highway Fund .....	88.20%
	General Fund .....	11.80%
8100-0011	The department of state police may expend an amount not to exceed \$3,600,000 for certain police activities provided pursuant to agreements authorized in this item; provided, that for fiscal year 2005, the superintendent of the state police may enter into service agreements with the commanding officer or other person in charge of a military reservation of the United States located in the Commonwealth of Massachusetts Development Finance Agency, established in chapter 23G of the General Laws; provided further, that such agreements shall establish the responsibilities pertaining to the operation and maintenance of police services including, but not limited to: (1) provisions governing payment to the department for the cost of regular salaries, overtime, retirement and other employee benefits; and (2) provisions governing payment to the department for the cost of furnishings and equipment necessary to provide such police services; provided further, that the department may charge any recipients of police services for the cost of such services, as authorized by this item; provided further, that the department may retain the revenue so received and expend such revenue as necessary pursuant to this item to provide the agreed level of services; provided further, that said superintendent may enter into service agreements as may be necessary to enhance the protection of persons, as well as assets and infrastructure located	

within the commonwealth, from possible external threat or activity, provided that such agreements shall establish the responsibilities pertaining to the operation and maintenance of police services including, but not limited to: (1) provisions governing payment to the department for the cost of regular salaries, overtime, retirement and other employee benefits; and (2) provisions governing payment to the department for the cost of equipment necessary to provide such police services; provided further, that the department may charge any recipients of police services for the cost of such services, as authorized by this item; provided further, that the department may retain the revenue so received and expend such revenue as necessary pursuant to this item to provide the agreed level of services; provided further, that the superintendent may expend from this item costs associated with joint federal and state law enforcement activities from federal reimbursements received therefore; and provided further, that notwithstanding any general or special law to the contrary for the purposes of accommodating discrepancies between the receipt of retained revenues and related expenditures, the department may incur expenses and the comptroller may certify for payment amounts not exceed the lower of this authorization or the most recent revenue estimate . . . . . \$3,600,000

Highway Fund . . . . . 100.0%

8100-0020 The department of state police may expend an amount not to exceed \$150,329 in fees charged for the use of the statewide telecommunications system for the maintenance of the system . . . . . \$150,329

8100-0101 For auto etching fees; provided, that the department may expend up to a maximum of \$17,980 in revenues collected from fees for services performed through the auto etching program . . . . . \$17,980

8100-0515 For the training and related costs of 2 new state police classes of not more than 300 recruits . . . . . \$6,900,000

*Criminal Justice Training Council.*

8200-0200 For the operation of veteran, reserve and in-service training programs conducted by the Massachusetts criminal justice training council; provided, that the council shall expend not less than \$250,000 in accordance with chapter 30B of the General Laws, for training and technical assistance for chiefs

of police and administrative or command personnel by: a) a combination of training manuals, seminars, computer based training and distance learning; b) research, drafting and mailing of monthly articles and presentations on legal and administration topics; c) training presentations during and following monthly meetings of policy chiefs; d) e-mail, toll-free consultation to chiefs on administrative issues and follow-up on seminar topics; e) a state-wide 3 day training conference on management, legal and leadership issues; provided further, that under no circumstances shall any expenditures authorized by this item be charged to item 8200-0222; and provided further, that no expenditures shall be made, on or after the effective date of this act, which would cause the commonwealth's obligation for the purpose of this item to exceed the amount appropriated in this item . . . . . \$2,496,050

8200-0222 The criminal justice training council may collect and expend an amount not to exceed \$1,161,500 for the purposes of providing training to new recruits; provided, that the council shall charge \$2,300 per recruit for the training; provided further, that notwithstanding any general or special law to the contrary, the criminal justice training council shall charge a fee of \$2,300 per person for training programs operated by the council for all persons who begin training on or after July 1, 2004; provided further, that the fee shall be retained and expended by the council; provided further, that the trainee, or, if the trainee is a recruit, the municipality in which the recruit shall serve, shall provide the fee in full to the council no later than the first day of orientation for the program in which such trainee or recruit has enrolled; provided further, that no recruit or person shall begin training unless the municipality or the person has provided the fee in full to the council; provided further, that for recruits of municipalities, upon the completion of the program, the municipality shall deduct the fee from the recruit's wages in 23 equal monthly installments, unless otherwise negotiated between the recruit and the municipality in which the recruit shall serve; provided further, that if a recruit withdraws from the training program before graduation, the council shall refund the municipality in which the recruit was to have served a portion of the fee according to the following schedule: if a recruit withdraws from the program before the start of week two, 75 per cent of the payment

shall be refunded; if a recruit withdraws from the program after the start of week 2 but before the start of week 3, 50 per cent of the fee shall be refunded; if a recruit withdraws from the program after the start of week 3 but before the start of week 4, 25 per cent of the fee shall be refunded; if a recruit withdraws after the start of week 4, the fee shall not be refunded; provided further, that a recruit who withdraws from the program shall pay the municipality in which he was to have served the difference between the fee and the amount forfeited by the municipality according to the schedule; provided further, that the schedule shall also apply to trainees other than recruits who enroll in the program; provided further, that no expenditures shall be charged to this item that are not directly related to new recruit training; provided further, that no expenditures shall be charged to this item that are related to chief, veteran, in-service, or reserve training, or any training not directly related to new recruits; provided further, that the council shall submit a report on the status of recruit training, including the number of classes, start and end dates of each class, total number of recruits enrolled and graduating in each class, cost per recruit and cost per class for fiscal years 2004 and 2005; provided further, that said report shall be submitted to the house and senate committees on ways and means no later than January 1, 2005; and provided further, that for the purposes of accommodating discrepancies between the receipt of retained revenues and related expenditures, the council may incur expenses and the comptroller may certify for payments not to exceed the lower of this authorization or the most recent revenue estimate as reported in the state accounting system ..... \$1,161,500

*Department of Public Safety.*

8311-1000 For the administration of the department of public safety, including the board of building regulations and standards and the architectural access board; provided, that the department may charge fees for permitting the operation of amusement devices and to support the department's participation in the National Council for Amusement and Recreational Equipment Safety; provided further, that the department may charge

	fees for amusement operator certification; and provided further, that the salaries of the commissioner and the deputy commissioner of the department of public safety shall be paid from this item .....	\$1,023,359
8315-1000	For the administrative costs of the division of inspections; provided, that the expenses of the state boxing commission shall be paid from this item; provided further, that a doctor's certificate from another state shall be accepted as evidence of an eye examination; provided further, that no funds shall be expended from this item for the salaries of the commissioner or deputy commissioner of public safety; provided further, that the department shall employ not less than 46.5 full-time equivalent elevator inspectors, including an additional engineer inspector; provided further, that such additional engineer inspector's duties shall include, but not be limited to, administering pipefitter license examinations; provided further, that such an additional engineer inspector and elevator inspectors shall be regular state employees compensated from the AA subsidiary of this item; provided further, that such additional engineer inspector position shall be in addition to any such positions added during fiscal year 1995; provided further, that the division shall develop reasonable rules or promulgate regulations for the granting of hardship fee exemptions to certain owners or persons in control of a building or domicile in which an elevator is operated; provided further, that the division shall report to the house and senate committees on ways and means on the elevator inspection backlog not later than October 1, 2004; provided further, that the division shall develop an electronic database that shall include, but not be limited to, the location and a categorical classification of buildings in which inspections are conducted; and provided further, that the division shall inspect all elevators in the state house and the McCormack office building .....	\$4,432,672
8315-1020	The department of public safety may expend an amount not to exceed \$850,000 in revenues collected from fees for annual elevator inspections; provided, that not less than \$700,000 shall be expended to employ inspectors for the purposes of addressing the existing elevator inspection backlog; provided further, that the department shall make efforts to employ in-	

spectors that will perform overnight and weekend inspections as their regular work shift; provided further, that notwithstanding any general or special law to the contrary, for the purpose of accommodating timing discrepancies between the receipt of retained revenues and related expenditures, the department may incur expenses and the comptroller may certify for payment amounts not to exceed the lower of this authorization or the most recent revenue estimate as reported in the state accounting system . . . . . \$850,000

8315-1025 The department of public safety may collect and expend an amount not to exceed \$80,000 for the purposes of providing state building code training and courses for instruction; provided, that the agency may charge fees for the classes and education materials associated with administering training; and provided further, that for the purposes of accommodating discrepancies between the receipt of retained revenues and related expenditures, the department may incur expenses and the comptroller may certify for payment amounts not to exceed the lower of this authorization or the most recent revenue estimate as reported in the state accounting system . . . . \$80,000

*Department of Fire Services.*

8324-0000 For the administration of the department of fire services, including the state fire marshal's office, the hazardous materials emergency response program and the Massachusetts firefighting academy, including the Massachusetts fire training council certification program, municipal and non-municipal fire training, and expenses of the council; provided, that the fire training program shall use the split days option; provided further, that notwithstanding any general or special law to the contrary, 100 per cent of the amount appropriated in this item for the administration of the department of fire services, the state fire marshal's office and the Massachusetts firefighting academy shall be assessed upon insurance companies writing fire, homeowners multiple peril or commercial multiple peril policies on property situated in the commonwealth and paid within 30 days after receiving notice of such assessment from the commissioner of insurance; provided further, that notwithstanding any general or special

law to the contrary, 100 per cent of the amount appropriated in this item for the operation of the hazardous materials emergency response program shall be assessed upon insurance companies writing commercial multiple peril, non-liability portion, policies on property situated in the commonwealth and commercial auto liability policies as referenced in line 5.1 and line 19.4, respectively, in the most recent annual statement on file with the commissioner of insurance; provided further, that notwithstanding any general or special law to the contrary, funds scheduled in the PP subsidiary, pursuant to section 27 of chapter 29 of the General Laws for this item in fiscal year 2005 shall not be transferred to any other subsidiary in said fiscal year; provided further, that not more than 10 per cent of the amount designated for the arson prevention program shall be expended for the administrative cost of the program; provided further, that the expenses of the board of fire prevention regulations, pursuant to section 4 of chapter 22D of the General Laws, shall be paid from this item; provided further, that the expenses of the fire safety commission shall be paid from this item; provided further, that \$25,000 shall be expended for the costs of operating the Fire Starters program by the Plymouth County juvenile court; and provided further, that not less than \$100,000 be expended for the administration of a statewide program to provide for critical incident stress intervention for the fire departments of the cities, towns, and fire districts of the commonwealth including, but not limited to, consultant services, training, equipment, and supplies . . . . . \$9,127,208

8324-1101 For the costs of the department for the enforcement of underground storage tank compliance standards set forth in sections 38B to 38I, inclusive, of chapter 148 of the General Laws and the rules and regulations promulgated pursuant thereto . . . . . \$106,240

*Registry of Motor Vehicles.*

8400-0001 For the administration and operation of the registry of motor vehicles, including the title division and including all rent and related parking and utility expenses of the registry; provided, that the positions of administrative assistant to the registrar, legislative assistant, executive assistant to the registrar and the

director of employee relations shall not be subject to civil service laws and rules; provided further, that all expenditures related to computer automation shall be subject to satisfactory quarterly reviews by the information technology division and pursuant to schedules by the division; provided further, that 40 per cent of the costs of personnel services associated with the registry computer, which reflects the proportionate use of the computer by the merit rating board, shall be assessed to insurance companies doing motor vehicle insurance business within the commonwealth, pursuant to section 183 of chapter 6 of the General Laws; provided further, that the registry may operate a full-service branch in the town of Southbridge; provided further, that the registry shall operate an office in the city of Fall River; provided further, that not less than \$110,000 shall be expended to operate a license express office in the city of Lynn; provided further, that the registry may operate a full service office in the town of Milford to be operated 5 days a week; provided further, the registry shall operate a license express office in the town of Walpole; provided further, that the registry shall operate a license express office in the town of Falmouth; provided further, that said registry may operate a full-service office in the city of Lowell; provided further, that said registry may operate a license express office in the Grove Hall neighborhood in the city of Boston; provided further, that the registry shall operate an office in the city of Taunton and the town of Plymouth which shall handle license business, learner's permits, road testing and full service registration business to the general public; provided further, that the registry shall establish and maintain a record of all vehicles leased within the commonwealth for a period longer than 30 days; provided further, that such record shall include, but not be limited to, the names and addresses of the lessor and the lessee; provided further, that the registry shall take all steps necessary to improve customer service within existing resources; and provided further, that the registry may operate within the Springfield branch a one stop international registration plan office for truck registrations to serve the counties of Hampden, Hampshire, Franklin and Berkshire ..... \$45,860,316  
Highway Fund ..... 100.0%

Chap. 149

8400-0016	For the operation of the motorcycle safety program . . . . .	\$185,691
8400-0024	Notwithstanding section 2 of chapter 280 of the General Laws, the registry of motor vehicles may expend not more than \$3,000,000 of revenue collected pursuant to chapter 90C of the General Laws from assessments for civil motor vehicle infractions; provided, that the amount of this expenditure shall be subtracted from the amount that otherwise would be credited to the Highway Fund pursuant to said section 2 of said chapter 280 and shall not affect nor alter the amounts of payments made to cities and towns pursuant to said section 2 of said chapter 280; provided further, that the registry of motor vehicles shall work with the office of the state comptroller to participate in the state's intercept program; and provided further, that no costs payable in the AA subsidiary shall be charged to this item . . . . .	\$3,000,000
8400-0033	The registry of motor vehicles may expend revenues collected up to a maximum of \$3,500,000 from the fees charged for driver record access, operating under the influence reinstatement and registration reinstatement; provided, that for the purpose of accommodating discrepancies between the receipt of retained revenues and related expenditures, the registry may incur expenses and the comptroller may certify for payments amounts not to exceed the lower of this authorization or the most recent revenue estimate as reported in the state accounting system; provided further, that all expenditures related to computer automation shall be subject to satisfactory quarterly reviews by the information technology division and pursuant to schedules prepared by the division; provided further, that 40 per cent of the costs of personnel services associated with the registry computer, which reflects the proportionate use of said computer by the merit rating board, shall be assessed to insurance companies doing motor vehicle insurance business within the commonwealth, pursuant to section 183 of chapter 6 of the General Laws; and provided further, that no costs payable in the AA subsidiary shall be charged to this item . . . . .	\$3,500,000
8400-0222	The registry of motor vehicles may expend not more than \$3,500,000 from revenues collected from registry renewal fees for the purpose of maintaining registry services . . . . .	\$3,500,000

*Merit Rating Board.*

8400-0100	For the operation of the safe driver insurance plan authorized pursuant to section 113B of chapter 175 of the General Laws, including the rent, related parking and utility expenses of the merit rating board; provided, that notwithstanding the provisions of any general or special law to the contrary, no safe driver insurance plan shall require the payment of an unsafe driver point surcharge for the first offense for non-criminal, motor vehicle traffic violations as described in chapter 90C of the General Laws .....	\$8,476,610
	Highway Fund .....	100.0%

*Military Division.*

8700-0001	For the operation of the military division, including the offices of the adjutant general and state quartermaster, the operation of the armories, the camp Curtis Guild rifle range and certain national guard aviation facilities; provided, that notwithstanding chapter 30 of the General Laws, certain military personnel in the military division may be paid salaries according to military pay grades; and provided further, that the adjutant general shall maintain a roster of Massachusetts veterans as directed by section 15 of chapter 33 of the General Laws .....	\$5,381,100
8700-1140	The state quartermaster may expend an amount not to exceed \$400,000 from revenues collected for the purposes described in this item; provided, that the state quartermaster may expend from fees collected for the non-military rental or use of armories for the costs of utilities and maintenance; provided, that the state quartermaster may expend an amount not to exceed \$250,000 for salaries, subsistence, quarters, and associated costs for national guard soldiers ordered to perform state missions pursuant to chapter 33 of the General Laws, from revenues resulting from the acceptance of funds from any person, governmental entity or non-governmental entity to defray such expenses .....	\$400,000

*Massachusetts Emergency Management Agency.*

8800-0001	For the operations of the Massachusetts emergency management agency; provided, that expenditures from this item shall be	
-----------	--------------------------------------------------------------------------------------------------------------------------	--

**Chap. 149**

	contingent upon the prior approval of the proper federal authorities .....	\$751,581
8800-0100	For the nuclear safety preparedness program of the Massachusetts emergency management agency; provided, that the costs of the program, including fringe benefits and indirect costs, shall be assessed upon Nuclear Regulatory Commission licensees operating nuclear power generating facilities in the commonwealth; provided further, that the department of telecommunications and energy shall develop an equitable method of apportioning such assessments among such licensees; and provided further, that such assessments shall be paid during the current fiscal year as provided by the department .....	\$388,855
8800-0200	For the Seabrook nuclear safety preparedness and radiological emergency response plan evaluations program; provided, that the cost of the program, including associated fringe benefits and indirect costs, shall be assessed on electric companies in the commonwealth which own, in whole or in part, or purchase power from, nuclear power plants located outside the commonwealth whose nuclear power plant areas, as defined in section 2B of chapter 639 of the acts of 1950, include communities located within the commonwealth and shall be credited to the General Fund; provided further, that the department of telecommunications and energy shall develop an equitable method of apportioning such assessments among the licensees; provided further, that such assessments shall be paid during the current fiscal year as provided by the department; provided further, that for the purposes of this item, "electric companies" shall mean all persons, firms, associations and private corporations which own or operate works or a distributing plant for the manufacture and sale or distribution and sale of electricity within the commonwealth; and provided further, that the term "electric company" shall not include municipalities or municipal light plants .....	\$269,473
8800-0300	For environmental monitoring of the nuclear power plant in Seabrook, New Hampshire including a continuous real-time radiological monitoring system for Massachusetts cities and towns located within the emergency planning zone of the nuclear power plant; provided, that the cost of this item, including any applicable fringe benefits and indirect costs, shall	

be assessed on electric companies in Massachusetts which own, in whole or in part, or purchase power from the Seabrook nuclear power plant; provided further, that the department of telecommunications and energy shall develop an equitable method of apportioning such assessments among the licensees; provided further, that such assessments shall be paid during the current fiscal year as provided by the department; provided further, that for the purposes of said item, electric companies shall be defined as all persons, firms, associations and private corporations which own or operate works or distribute electricity in the commonwealth; provided further, that the term "electric companies" shall not include municipalities or municipal light plants; and provided further, that the department shall report to the house and senate committees on ways and means no later than March 1, 2005 the results of the monitoring project between the department and the citizens monitoring group, including but not limited to, the reasons for increases and decreases in radiation levels . . . . . \$90,356

*Department of Correction.*

8900-0001 For the operation of the commonwealth's department of correction; provided, that the department shall expend not less than \$1,008,500 to cities and towns hosting facilities; provided further, that one-half of the number of inmates incarcerated at Souza Baranowski correctional center shall be deemed to be incarcerated within a correctional facility in the town of Shirley and one-half shall be deemed to be incarcerated within a correctional facility in the town of Lancaster; provided further, that before closing any correctional facility, the commissioner of corrections and the secretary of public safety shall report to the committees on ways and means and public safety on the per-inmate cost of incarceration in the closing facility, and the per-inmate cost in the facilities to which inmates will be moved; provided further, the commissioner of corrections and the secretary of public safety shall report to the committees on ways and means and public safety before January 1 of each year the point score compiled by the department of correction's objective classification system for all prisoners confined in each prison operated by the department; provided further, that not less than \$875,000

shall be provided for emergency safety equipment grants; provided further, that not less than \$40,000 shall be provided for the Dismas House, so called; provided further, that not less \$200,000 shall be provided for the Aid to Incarcerated Mothers organization; provided further, that the department shall expend not less than \$500,000 to the community hosting the facility at Cedar Junction; provided further, that the department may expend funds appropriated herein for the administration of budgetary, procurement, fiscal, human resources, payroll and other administrative services of the military division, the Massachusetts parole board and the sex offender registry board; provided further, that not less than \$75,000 shall be expended for the 5-A program in the Springfield; provided further, that funds shall be expended on the Neil Houston House; and provided further, that the department may expend up to \$1,000,000 for the commissioner of probation to implement at a global positioning system utilizing tamper free ankle bracelets to track level 3 sex offenders actively on parole ..... \$429,624,325

8900-0010 For prison industries and farm services; provided, that the commissioner of correction shall submit quarterly financial reports detailing revenues generated and expended, to the house and senate committees on ways and means ..... \$2,783,521

8900-0011 For a prison industries and farm services revenue retention account; provided, that the department may expend an amount not to exceed \$2,600,000 from revenues collected from the sale of products, for materials, supplies, equipment, maintenance of facilities and compensation of employees of the program; and provided further, that all expenditures from this item shall be subject to chapter 29 of the General Laws and recorded on the Massachusetts management accounting and reporting system ..... \$2,600,000

8900-0045 The department of correction may expend for the operation of the department, including personnel-related expenses, an amount not to exceed \$3,000,000 from revenues received from federal inmate reimbursements; provided, that \$900,000 from said reimbursements shall not be available for expenditure and shall be deposited in the General Fund prior to the retention by the department of any said reimbursements; provided further, that notwithstanding the provisions of any general or special law to the contrary, for the purpose

of accommodating timing discrepancies between the receipt of retained revenues and related expenditures, the department may incur expenses and the comptroller may certify for payment amounts not to exceed the lower of this authorization or the most recent revenue estimate as reported in the state accounting system .....\$3,000,000

*County Corrections.*

8910-0000 For a reserve to fund county correctional programs; provided, that the funds appropriated in this item shall be distributed among the sheriffs departments of Barnstable, Bristol, Dukes, Nantucket, Norfolk, Plymouth and Suffolk counties by the county government finance review board upon prior notification to the house and senate committees on ways and means; provided further, that funds appropriated in this item shall be in addition to and contingent on item 1599-7092; provided further, that funds made available to Plymouth county can be expended for operating and debt service costs associated with state inmates housed in the Plymouth county facility, pursuant to the provisions of clauses 3 and 4 of the Memorandum of Agreement signed May 14, 1992; provided further, that not less than \$4,900,000 shall be provided to the sheriff department of Barnstable county to fund the operational expenses associated with the opening of a new correctional facility in fiscal year 2005; provided further, that Suffolk county may receive additional funding from the balance for county correction maintenance and operation expenses; provided further, that funds distributed from this item shall be paid to the treasurer of each county who shall place such funds in a separate account within the treasury of each such county; provided further, that the treasurer shall authorize temporary transfers into this account for operation and maintenance of jails and houses of correction in advance of receipt of the amount distributed by the commonwealth under this item; provided further, that upon receipt of the state distribution, the treasurer may transfer out of such account an amount equal to the funds so advanced; provided further, that all funds deposited in such accounts and any interest accruing thereto shall be used solely for the functions of the sheriffs' departments of the various counties including, but not limited

to, maintenance and operation of jails and houses of correction, without further appropriation; provided further, that the sheriff's department of each county shall reimburse the county treasurer of each county for personnel-related expenses, with the exception of salaries, attributable to the operations of the sheriff's department of each county heretofore paid by the county including, but not limited to, the cost of employee benefits; provided further, that the spending plans required by this item shall be developed by the county government finance review board, in consultation with the Massachusetts Sheriffs' Association; provided further, that in accordance with section 247 of chapter 38 of the acts of 1995, all spending plans shall be detailed by subsidiary and object code in accordance with the expenditure classification requirements promulgated by the comptroller; provided further, that such spending plans shall be accompanied by a delineation of all personnel employed by each county correctional facility including, but not limited to, position, title, classification, rank, grade, salary and full-time or part-time status; provided further, that such spending plans shall be accompanied by a delineation of all vehicles leased, owned or operated by each county sheriff; provided further, that no sheriff shall purchase any new vehicles or major equipment in fiscal year 2005 unless such purchase is made pursuant to a multicounty or regionalized collaborative procurement arrangement or unless such purchase is directly related to significant population increase or is otherwise necessary to address an immediate and unanticipated public safety crisis and is approved by the county government finance review board and the executive office of public safety; provided further, that notwithstanding the provisions contained in this item, sheriffs may purchase "marked" prisoner transportation vans, upon notification to the county government finance review board; provided further, that notwithstanding any special law to the contrary, no county treasurer shall retain revenues derived by the sheriffs from commissions on telephone service provided to inmates or detainees; provided further, that the revenues shall be retained by the sheriffs not subject to further appropriation for use in a canteen fund; provided further, that the county government finance review board and the executive office of public safety shall identify

and develop county correction expenditures which shall be reduced through shared contracts, regionalized services, bulk purchasing and other centralized procurement savings programs; provided further, that the daily count sheet for county facilities, compiled by the executive office of public safety, shall be filed with the Massachusetts Sheriffs' Association not less than monthly; provided further, that all revenues including, but not limited to, revenue received from housing federal prisoners, United States Marshals, canteen revenues, inmate industries and work-crew revenues shall be tracked and reported quarterly to the house and senate committees on ways and means and the Massachusetts Sheriffs' Association; provided further, that on or before August 15, 2004, each county sheriff shall submit a final spending plan for fiscal year 2005 to the county government finance review board and the house and senate committees on ways and means detailing the level of resources deemed necessary for the operation of each county correctional facility and the expenditures which shall be reduced to remain within the appropriation; provided further, that failure by a county sheriff to comply with any provision of this item shall result in a reduction of subsequent quarterly payments to amounts consistent with a rate of expenditure of 95 per cent of the rate of expenditure for fiscal year 2004, as determined by the county government finance review board; provided further, that each sheriff shall submit to the executive office of public safety and the house and senate committees on ways and means copies of such spending plans not later than August 15, 2004; provided further, that on or before September 15, 2004, the county government finance review board shall have approved final fiscal year 2005 county correction budgets; provided further, that the county government finance review board shall provide the executive office of public safety and the house and senate committees on ways and means with copies of such approved budgets not later than October 15, 2004; provided further, that such budgets shall include distribution schedules for the final two quarters of fiscal year 2005 and such plans shall be used to make all subsequent quarterly distributions; provided further, that services shall be provided to the extent determined to be possible within the amount appropriated in this item and each sheriff shall make

all necessary adjustments to ensure that expenditures do not exceed the appropriation; provided further, that each county shall expend during fiscal year 2005, for the operation of county jails and houses of correction and other statutorily authorized facilities and functions of the office of the sheriff, in addition to the amount distributed from this item, not less than 102.5 per cent of the amount expended in fiscal year 2004 for such purposes from own-source revenues, which shall not be less than 5 per cent of total county revenues including, but not limited to, amounts levied pursuant to sections 30 and 31 of chapter 35 of the General Laws and amounts provided pursuant to sections 11 to 13, inclusive, of chapter 64D of the General Laws; provided further, that in fiscal year 2005, those counties which have not met maintenance of effort obligations in prior fiscal years shall expend not less than the minimum contribution, as defined above from own-source revenues; provided further, that notwithstanding the provisions stated in this item, the maintenance of effort obligations for Suffolk county shall be 4 per cent of the total fiscal year 2005 Suffolk county correction operating budget as approved by the county government finance review board; provided further, that notwithstanding any general or special law to the contrary, the deputy commissioner of local services shall certify on or before May 15, 2005 that all municipalities have appropriated and transferred to their respective county treasuries, not less than 102.5 per cent of the municipality's prior year obligations or minimum contributions as defined above, whichever is greater, for county corrections; provided further, that if a municipality fails to transfer such obligation, the deputy commissioner shall withhold an amount equal to the shortfall in the obligation due to the county from such municipality's fourth quarter local aid "cherry sheet" distribution, authorized from item 0611-5500 of section 2 and from funds made available from the State Lottery Fund distribution in section 3; provided further, that on or before August 1, 2004, the deputy commissioner shall report all such withholdings to the house and senate committees on ways and means; provided further, that in fiscal year 2005, notwithstanding section 20A of chapter 59 of the General Laws, any county except Suffolk and Nantucket may increase its county tax for

	the fiscal year by an additional amount if the total amount of such additional county tax is approved by two-thirds of the cities and towns in the county, in towns by a majority vote of the town meeting or town council, and in cities by a majority vote of the city council or board of aldermen, with the approval of the mayor or manager; and provided further, that each sheriff funded from this item shall report on a monthly basis to the house and senate committees on ways and means on the average monthly inmate population in the county starting not later than September 30, 2004 . . . . .	\$133,668,218
8910-0002	For the administration of a sex offender warrant unit pilot program in the Barnstable County Sheriff's office; provided, that pursuant to provisions in this act, the unit shall support the regional cape cod sex offender management task force, provide address verification and maintain a regional sex offender database for local law enforcement . . . . .	\$152,000
8910-0003	For two regional behavioral evaluation and stabilization units to provide forensic mental health services within existing physical facilities for incarcerated persons in the care of correctional facilities in the Commonwealth; provided, that one unit shall be located in the former Hampden County to serve the needs of incarcerated persons in the care of the former Berkshire, Franklin, Hampden, Hampshire, and Worcester counties; provided further, that one unit shall be located in the former Middlesex County to serve the needs of incarcerated persons in the care of Barnstable, Bristol, Dukes, the former Essex, Nantucket, the former Middlesex, Norfolk, Plymouth, and Suffolk counties; provided further, that the services of the units shall be made available to incarcerated persons in the care of the department of correction; provided further, that the Massachusetts Sheriffs' Association, in conjunction with the department of correction, shall prepare a report that shall include, but not be limited to, a) the number of incarcerated persons in facilities located in former and existing counties that were provided services in each unit, b) the number of incarcerated persons in department of correction facilities that were provided services in each unit, c) the alleviation in caseload at Bridgewater State Hospital associated with fewer incarcerated persons in the care of former and existing counties being attended to at said hospital and, d) the estimated and projected cost-savings in fiscal year	

	2005 to the sheriff departments and the department of correction associated with the regional units; provided further, that the report shall be submitted to the house and senate committees on ways and means no later than March 15, 2005; and provided further, that the department of mental health shall maintain monitoring and quality review functions of said units .....	\$2,600,000
8910-0010	For the purpose of funding expenses for services provided to inmates of county correctional facilities by the department of public health Lemuel Shattuck hospital in fiscal year 2005; provided, that the department shall notify the county government finance review board and the comptroller of all such expenses; provided further, that not more than 30 days after receiving such notification, the board shall certify to the comptroller the amount of such expenses to be charged to this item; provided further, that upon receiving such certification, the comptroller shall effect the transfer of such amount from this item to item 4590-0903 in section 2B; and provided further, that such actual and projected payments shall be considered expenditures within each county spending plan and shall be reflected as such in proposed spending plans required by 8910-0000 in section 2 .....	\$1,300,000
<i>Sheriffs.</i>		
8910-0102	For the operation of the jail, house of correction and any other statutorily authorized facilities and functions under the administration of the office of the sheriff of the former Hampden county; provided, that the sheriff shall report to the house and senate committees on ways and means on the average monthly inmate population in the county starting not later than August 1, 2004 .....	\$53,943,889
8910-0105	For the operation of the jail, house of correction and any other statutorily authorized facilities and functions under the administration of the office of the sheriff of the former Worcester county; provided, that the sheriff shall report to the house and senate committees on ways and means on the average monthly inmate population in the county starting not later than August 1, 2004 .....	\$38,034,321
8910-0107	For the operation of the jail, house of correction and any other statutorily authorized facilities and functions under the admin-	

	istration of the office of the sheriff of the former Middlesex county; provided, that the sheriff shall report to the house and senate committees on ways and means on the average monthly inmate population in the county starting not later than August 1, 2004 .....	\$48,620,821
8910-0108	For the operation of the jail, house of correction and any other statutorily authorized facilities and functions under the administration of the office of the sheriff of the former Franklin county; provided, that the sheriff shall report to the house and senate committees on ways and means on the average monthly inmate population in the county starting not later than August 1, 2004 .....	\$6,136,081
8910-0110	For the operation of the jail, house of correction and any other statutorily authorized facilities and functions under the administration of the office of the sheriff of the former Hampshire county; provided, that the sheriff shall report to the house and senate committees on ways and means on the average monthly inmate population in the county starting not later than August 1, 2004 .....	\$10,430,689
8910-0145	For the operation of the jail, house of correction, and any other statutorily authorized facilities and functions under the administration of the office of the sheriff of the former Berkshire county; provided, that the sheriff shall report to the house and senate committees on ways and means on the average monthly inmate population in the county starting not later than August 1, 2004 .....	\$12,842,331
8910-0160	For a retained revenue account for the Middlesex sheriff's department for reimbursements from the federal government for costs associated with the incarceration of federal inmates at the Billerica house of correction; provided, that the department may expend for the operation of the department and for renovation of a new training facility and one-time capital maintenance issues at the Billerica house of correction an amount not to exceed \$850,000 from revenues collected from the incarceration of federal inmates; provided further, that notwithstanding any general or special law to the contrary, for the purpose of accommodating timing discrepancies between the receipt of retained revenues and related expenditures, the department may incur expenses and the comptroller may certify for payment amounts not to exceed the lower of this authorization or the most recent revenue estimate therefore as	

	reported in the state accounting system; and provided further, that all expenditures from this item shall be subject to chapter 29 of the General Laws and recorded on the Massachusetts management accounting and reporting system . . . . .	\$850,000
8910-0188	The Franklin sheriff's department may expend for the operation of the department an amount not to exceed \$1,300,000 from revenues received from federal inmate reimbursements; provided, that \$300,000 from the reimbursements shall not be available for expenditure and shall be deposited in the General Fund at a rate of the first \$75,000 of each quarter before the retention by the department of any said reimbursements; provided further, that the quarterly payments shall total \$300,000 in fiscal year 2005; and provided further, that notwithstanding any general or special law to the contrary, for the purpose of accommodating timing discrepancies between the receipt of retained revenues and related expenditures, the department may incur expenses and the comptroller may certify for payment amounts not to exceed the lower of this authorization or the most recent revenue estimate therefore as reported in the state accounting system . . . . .	\$1,300,000
8910-0445	The Berkshire sheriff's department may expend an amount not to exceed \$150,000 from revenues generated from the operation of the Berkshire County Communication Center's 911 dispatch operations and other law enforcement related activities, including the Berkshire County Sheriff prison industries program; provided, that all expenditures from this item shall be subject to chapter 29 of the General Laws and recorded on the Massachusetts management accounting and reporting system . . . . .	\$150,000
8910-0619	For the operation of the jail, house of correction and any other statutorily authorized facilities and functions under the administration of the office of the sheriff of the former Essex county; provided, that the sheriff shall report to the house and senate committees on ways and means on the average monthly inmate population in the county starting not later than August 1, 2004 . . . . .	\$39,701,005
8910-0888	For a prison industries revenue retention account for the Franklin sheriff's department; provided, that the department may expend any amount not to exceed \$100,000 from revenues collected from the sale and production of printed materials manufactured at the sheriff department's print shop; provided	

	further, that all expenditures from this item shall be subject to chapter 29 of the General Laws and recorded on the Massachusetts management accounting and reporting system . . . . .	\$100,000
8910-1000	For a prison industries revenue retention account for the Hampden sheriff's department; provided, that the department may expend any amount not to exceed \$600,000 from revenues collected from the sale of products, for materials, supplies, equipment, maintenance of facilities, reimbursement for community service projects and compensation of employees of the program; and provided further, that all expenditures from this item shall be subject to chapter 29 of the General Laws and recorded on the Massachusetts management accounting and reporting system . . . . .	\$600,000
8910-1100	For a prison industries revenue retention account for the Middlesex sheriff's department; provided, that the department may expend an amount not to exceed \$75,000 for revenues collected from the sale of products, for materials, supplies, equipment, maintenance of facilities and compensation of employees of the program; and provided further, that all expenditures from this item shall be subject to chapter 29 of the General Laws and recorded in the Massachusetts management accounting and reporting system . . . . .	\$75,000
8910-1111	The Hampshire sheriff's department may expend for the operation of the department an amount not to exceed \$163,000 from revenues received from federal inmate reimbursements; provided, that \$150,000 from the reimbursements shall not be available for expenditure and shall be deposited into the General Fund at a rate of the first \$35,500 of each quarter before the retention by the department of any of these reimbursements; provided further, that the quarterly payments shall total \$150,000 in fiscal year 2005; and provided further, that notwithstanding any general or special law to the contrary, for the purpose of accommodating timing discrepancies between the receipt of retained revenues and related expenditures, the department may incur expenses and the comptroller may certify for payment amounts not to exceed the lower of this authorization or the most recent revenue estimate as reported in the state accounting system . . . .	\$163,000
8910-2222	The Hampden sheriff's department may expend for the operation of the department an amount not to exceed \$320,000 from revenues received from federal inmate reimbursements;	

provided, that \$312,000 from the reimbursements shall not be available for expenditure and shall be deposited into the General Fund at a rate of the first \$78,000 of each quarter before the retention by the department of any of these reimbursements; provided further, that the quarterly payments shall total \$312,000 in fiscal year 2005; and provided further, that notwithstanding any general or special law to the contrary, for the purpose of accommodating timing discrepancies between the receipt of retained revenues and related expenditures, the department may incur expenses and the comptroller may certify for payment amounts not to exceed the lower of this authorization or the most recent revenue estimate therefore as reported in the state accounting system . . . . . \$320,000

8910-6619 The Essex sheriff's department may expend for the operation of the department an amount not to exceed \$2,000,000 from revenues received from federal inmate reimbursements; provided, that \$150,000 from the reimbursements shall not be available for expenditure and shall be deposited quarterly into the general fund before the retention by the department of any of these revenues as certified by the comptroller; provided further, that said quarterly payments shall total \$600,000 in fiscal year 2005; and provided further, that notwithstanding any general or special law to the contrary, for the purpose of accommodating timing discrepancies between the receipt of retained revenues and related expenditures, the department may incur expenses and the comptroller may certify for payment amounts not to exceed the lower of this authorization or the most recent revenue estimate as reported in the state accounting system . . . . . \$2,000,000

8910-7100 The Massachusetts Sheriffs' Association may expend for the operation of said association an amount not to exceed \$211,000 from revenues received from voluntary contributions from state and county sheriffs; provided, that the sheriffs shall appoint persons to serve as executive director, assistant executive director and research director and other staff positions as necessary to the Massachusetts Sheriffs' Association for the purpose of coordination and standardization of services and programs, the collection and analysis of data related to incarceration and recidivism and generation of reports, technical assistance and training to ensure standardization in

organization, operations, and procedures; provided further, that this staff shall not be subject to section 45 of chapter 30 or to chapter 31 of the General Laws and shall serve at the will and pleasure of a majority of sheriffs; provided further, that the 14 sheriffs of the commonwealth shall form an agreement to fund the costs of this item in future fiscal years; provided further, that the executive director of the Association shall submit a report that shows the amounts of all grants awarded to each sheriff in fiscal year 2005; and provided further, that the report shall be submitted to the house and senate committees on ways and means not later than February 1, 2005 ..... \$211,000

*Parole Board.*

8950-0001 For the operation of the parole board ..... \$12,653,427  
8950-0002 For the victim and witness assistance program of the parole board, in accordance with chapter 258B of the General Laws ..... \$277,557  
8950-0008 For the operation of the parole board's sex offender management program and the supervision of high-risk offenders, the parole board may expend an amount not to exceed \$600,000 from revenues collected from fees charged for parolee supervision pursuant to section 128 of chapter 276 of the General Laws; provided, that the parole board shall file a report with the house and senate committees on ways and means not later than February 1, 2005 which shall include, but not be limited to, the number of parolees participating in the program and the reincarceration rate of participating parolees ..... \$600,000

*Department of Elder Services*

9110-0100 For the operation of the executive office; provided, that the secretary shall continue to support community care ombudsman services ..... \$1,665,860  
9110-0102 For the regulation of assisted living facilities; provided, that the executive office of elder affairs shall report annually to the house and senate committees on ways and means the number of assisted living units certified and the total revenues generated from application and certification fees for such units ..... \$246,447

9110-1455 For the costs of the drug insurance program authorized by section 39 of chapter 19A of the General Laws; provided, that amounts received by the executive office of elder affairs' vendor as premium revenue for this program may be retained and expended by the vendor for the purposes of the program; provided further, that not less than \$500,000 shall be made available for the operation of the pharmacy outreach program established by section 4C of chapter 19A; provided further, that not more than \$25,000 shall be made available for the purpose of conducting a cost-benefit analysis and evaluation of the services associated with the pharmacy outreach program established pursuant to said section 4C of chapter 19A of the general laws; provided further, that notwithstanding any general or special law to the contrary, unless otherwise prohibited by state or federal law, prescription drug coverage or benefits payable by the executive office of elder affairs, and the entities with which it has contracted for administration of the subsidized catastrophic drug insurance program pursuant to said section 39 of said chapter 19A shall be the payer of last resort for such program for eligible persons with regard to any other third party prescription coverage or benefits available to such eligible persons; provided further, that the executive office shall notify the house and senate committees on ways and means not less than 90 days in advance of any action to limit or cap the number of enrollees in the program; provided further, that said program is subject to appropriation and expenditures shall not exceed in fiscal year 2005 the amount authorized herein; provided further, that no action shall be taken to expand the benefits of the program, extend benefits to additional populations or reduce cost sharing in the program without approval of the general court; provided further, that the department shall file any and all legislation required to implement such actions for review and analysis by the general court; provided further, that notwithstanding any special or general law to the contrary, the secretary of elder affairs shall not implement any cost sharing increases to Prescription Advantage, and any and all prescription drug benefits provided to enrollees in fiscal year 2005 shall be the same as those provided to Prescription Advantage enrollees in fiscal year 2004; provided that there

will be an open enrollment period, lasting not less than 1 month and not more than 2 months, that will begin no later than October 1, 2004; provided, that said open enrollment shall be preceded by at least 60 days of advance public notice and marketing; provided further, that during the open enrollment period, individuals shall be enrolled in the program in the order in which the program receives their completed application; and provided further, that a person will also be eligible to enroll in the program at any time within a year of reaching age 65. . . . . \$110,000,000

9110-1460 To provide relief from co-payments related to prescription advantage; provided, that not later than July 1, 2004, the secretary of elder affairs shall implement a co-payment reduction plan limited to members in category 1 whose income is at or below 188 per cent of the federal poverty level; provided further, that said co-payment reduction plan shall seek to reduce the required co-payments for all levels of prescription drugs, both retail and mail service to the lowest extent possible; provided further, that the cost of said reduction shall not exceed in fiscal year 2005 the amount authorized herein . . . . . \$5,000,000

9110-1500 For the provision of enhanced home care services, including case management to elders who meet the eligibility requirements of the home care program and who need services above the level customarily provided under the program to remain safely at home, including elders previously enrolled in the managed care in housing, enhanced community options, and chronic care enhanced services programs; provided further, that the secretary shall actively seek to obtain federal financial participation for any and all services provided to seniors who qualify for Medicaid benefits pursuant to the section 2176 waiver; provided further, that said executive shall collect income data on persons receiving services provided in this item; provided further, that said office shall submit a report to the house and senate committees on ways and means detailing the population served by this item delineated by both 2004 federal poverty line income levels and 2004 social security income standards; provided further, that said report shall be submitted not later than February 1, 2005; and provided further, that said office, in collaboration with the title XIX single state agency, shall include in said report an update on

the progress of seeking federal financial participation under an expanded 2176 waiver for expenditures authorized herein, as directed by this act . . . . .		\$37,488,337
9110-1604	For the operation of the supportive senior housing program . . . . .	\$1,940,000
9110-1630	For contracts with aging service access points or other qualified entities for the home care program, including home care, health aides, home health and respite services and other services provided to the elderly; provided, that a sliding fee shall be charged to qualified elders; provided further, that the secretary of elder affairs may waive collection of sliding fees in cases of extreme financial hardship; provided further, that not more than \$7,500,000 in revenues accrued from sliding fees shall be retained by the individual home care corporations without re-allocation by the executive office of elder affairs, and shall be expended for the purposes of the home care program, consistent with guidelines to be issued by the executive office; provided further, that the executive office shall report quarterly to the house and senate committees on ways and means on the receipt and expenditure of revenues accrued from the sliding fees; provided further, that the executive office shall report monthly to the house and senate committees on ways and means and the executive office for administration and finance on the amount expended from this item for purchase of service expenditures by category of service as set forth in 651 C.M.R. 3.01 and 651 C.M.R. 3.06; provided further, that no rate increase shall be awarded in fiscal year 2005 which would cause a reduction in client services or the number of clients served; provided further, that no funds shall be expended from this item to pay for salary increases for direct service workers who provide state-funded homemaker and home health aid services, which would cause a reduction in client services; provided further, that not less than \$100,000 shall be made available for a pilot program for home health care, to be administered by Community Parish Nursing in the town of Reading; and provided further, that the secretary of elder affairs may transfer an amount not to exceed 3 per cent of the funds appropriated herein to item 9110-1633 for case management services and the administration of the home care program . . . . .	\$97,060,705
9110-1633	For contracts with aging service access points, or other qualified	

entities for home care case management services and the administration of the home care corporations funded through item 9110-1630 and item 9110-1500; provided, that such contracts shall include the costs of administrative personnel, home care case managers, travel, rent and other costs deemed appropriate by the executive office of elder affairs; provided further that no funds appropriated in this item shall be expended for the enhancement of management information systems; and provided further, that the secretary of elder affairs may transfer an amount not to exceed 3 per cent of the funds appropriated herein to item 9110-1630 . . . . . \$34,941,978

9110-1636 For the elder protective services program, including protective services case management, guardianship services, the statewide elder abuse hotline, and the elder-at-risk program; provided, that not less than \$495,000 shall be expended for money management services . . . . . \$10,099,137

9110-1660 For congregate and shared housing services for the elderly; provided further, that not less than \$50,000 shall be expended for the congregate housing services at the Tuttle House facility in Dorchester; provided further, that not less than \$40,100 shall be allocated to North Shore Elder Services; and provided further, that not less than \$150,000 shall be allocated to the Committee to End Elder Homelessness, Inc . . \$1,309,680

9110-1700 For residential assessment and placement programs for homeless elders . . . . . \$50,000

9110-1900 For the elder lunch program; provided, that not less than \$30,000 shall be expended for a youth/elder outreach position at the Roche Family Community Center in West Roxbury; provided further, that not less than \$15,000 shall be expended for the Grandparents as Parents Initiative; and provided further, that not less than \$15,000 shall be expended for the Cross Street Elderly Services in Somerville . . . . . \$3,999,441

9110-9002 For the local services program for grants to the councils on aging and for grants to or contracts with non-public entities which are consortia or associations of councils on aging; provided, that notwithstanding the foregoing, all monies appropriated in this item shall be expended in accordance with the distribution schedules for formula and incentive grants established by the secretary; and provided further, that such distribution schedules shall be submitted to the house and senate committees on ways and means . . . . . \$6,500,000

**LEGISLATURE.**

*Senate.*

9500-0000 For the operation of the senate ..... \$16,620,035

*House of Representatives.*

9600-0000 For the operation of the house of representatives ..... \$30,872,678

*Joint Legislative Expenses.*

9700-0000 For the joint operations of the legislature ..... \$6,767,859

9700-0010 For the advisory committee on early education and care  
established in this act ..... \$40,000

*Commission on the Status of Women.*

0950-0000 For the commission on the status of women ..... \$145,000

**SECTION 2B.** Notwithstanding the provisions of any general or special law to the contrary, the agencies listed in this section may expend the amounts listed in this section for the provision of services to agencies listed in section 2. All expenditures made pursuant to this section shall be accompanied by a corresponding transfer of funds from an account listed in section 2 to the Intragovernmental Service Fund, established by section 2Q of chapter 29 of the General Laws. No expenditures shall be made from the Intragovernmental Service Fund which would cause that fund to be in deficit at the close of fiscal year 2005. All authorizations in this section shall be charged to the Intragovernmental Service Fund and shall not be subject to section 5D of chapter 29 of the General Laws. Any balance remaining in that fund at the close of fiscal year 2005 shall be transferred to the General Fund.

**OFFICE OF THE SECRETARY OF STATE.**

0511-0003 For the costs of providing electronic and other publications  
purchased from the state bookstore, for commission fees,  
notary fees and for direct access to the secretary's computer  
library ..... \$25,000

0511-0235 For the costs of obsolete records destruction incurred by the  
office of the secretary of state; provided, that state agencies,  
including the judicial branch, may be charged for the  
destruction of their obsolete records by the records center  
where appropriate; provided further, that the secretary of state  
may expend revenues not to exceed \$100,000 of such funds  
received for the costs of such obsolete record destruction; and  
provided further, that such fees shall be charged on an  
equitable basis ..... \$100,000

**OFFICE OF THE STATE COMPTROLLER.**

1000-0008 For the costs of operating and managing the MMARS and New  
MMARS accounting system for fiscal year 2005 ..... \$5,656,002

**EXECUTIVE OFFICE OF ADMINISTRATION AND FINANCE.**

*Office of Dispute Resolution.*

1100-1108 For the office of dispute resolution for the costs of mediation and  
other services provided to certain agencies ..... \$300,000

*Division of Capital Asset Management and Maintenance.*

1102-3224 For the costs for the Leverett Saltonstall lease and occupancy  
payments; provided, that the department of capital assets  
management and maintenance shall submit to the house and  
senate committees on ways and means or before the first of  
each month beginning August 1, 2004 a monthly report on the  
agencies that currently, or will during fiscal year 2005, occupy  
space in the Saltonstall building, their rental costs, utility  
costs, parking space allocation, floor space, lease dates, all  
services included in the lease and all services that the agencies  
are obligated to fund beyond the lease payments; provided  
further, that the report shall include both estimated payments  
and prior expenditures; provided further, that notwithstanding  
any general or special law to the contrary, the department  
shall also file a report to the house and senate committees on  
ways and means not later than December 15, 2004 regarding  
all costs related to the purchase and lease of furniture or any  
other reasonable item that could be construed as furniture  
including but not limited to: desks, bookcases, file cabinets,  
chairs, workstations, cubicles, tables, microwaves, coffee  
makers, water bubblers, coat racks, trash bins, sofas, desk  
extensions, storage cabinets and refrigerators; and provided  
further, that the report shall list all costs associated with the  
leases and purchases of the items and others not included but  
would be considered like items for all agencies that were  
required to move out of the Saltonstall building before  
construction and all costs associated with the lease and  
purchases of said items for all agencies moving into the  
building in fiscal years 2004, 2005 and 2006 ..... \$10,968,980

*Bureau of State Office Buildings.*

1102-3333	For the operation and maintenance of state buildings, including reimbursement for overtime expenses, materials and contract services purchased in performing renovations and related services for agencies occupying state buildings or for services rendered to approved entities utilizing state facilities . . . . .	\$165,000
1102-3336	For the operation and maintenance of the space in the Hurley state office building occupied by the division of unemployment assistance . . . . .	\$3,146,385

*Reserves.*

1599-2040	For the payment of prior year deficiencies based upon schedules provided to the house and senate committees on ways and means; provided, that the comptroller may charge departments' current fiscal year appropriations and transfer to such item amounts equivalent to the amounts to any prior year deficiency, subject to the conditions stated in this item; provided further, that the comptroller shall only assess chargebacks to those current fiscal year appropriations when the account to which the chargeback is applied is the same account to which the prior year deficiency pertains or, if there is no such account, to the current fiscal year appropriation for the general administration of the department that administered the account to which the prior year deficiency pertains; provided further, that no chargeback shall be made which would cause a deficiency in any current fiscal year item; provided further, that the comptroller shall report with such schedule a detailed reason for the prior year deficiency on all chargebacks assessed that exceed \$1,000 including the amount of the chargeback, the item and subsidiary charged; and provided further, that the comptroller shall report on a quarterly basis on all chargebacks assessed, including the amount of the chargeback, the item, subsidiary charged and the reason for the prior year deficiency . . . . .	\$7,000,000
1599-3100	For the cost of the commonwealth's employer contributions to the Unemployment Compensation Fund and the Medical Security Trust Fund; provided, that the secretary for administration and finance shall authorize the collection, accounting and payment of such contributions; and provided further, that in executing	

these responsibilities the state comptroller may charge in addition to individual appropriation accounts certain non-appropriated funds in amounts that are computed on the same basis as the commonwealth's contributions are determined, including expenses, interest expense or related charges . . . . \$26,600,000

*Division of Human Resources.*

1750-0101 For the cost of goods and services rendered in administering training programs, including the cost of training unit staff; provided, that the human resources division may collect a \$75 administrative fee from vendors who submit proposals in response to requests for proposals for the commonwealth master service agreement for specialized training and consultation services at the time of proposal submission; provided further, that any vendor who fails to deliver the appropriate administrative fee with its submission shall be deemed nonresponsive and its proposal shall not be considered for contract award; provided further, that the division shall charge to other items for the cost of participants enrolled in programs sponsored by the division or to state agencies employing such participants; provided further, that the division may collect from participating state agencies a fee sufficient to cover administrative costs of the commonwealth's performance recognition programs and to expend such fees for goods and services rendered in the administration of these programs; and provided further, that the division may charge and collect from participating state agencies a fee sufficient to cover administrative costs and expend such fees for goods and services rendered in the administration of information technology services related to the human resources compensation management system program . . . . . \$850,000

1750-0105 For the cost of workers' compensation paid to public employees; provided, that the secretary of administration and finance shall charge other items or state agencies for costs incurred on behalf of these state agencies; provided further, that the secretary may transfer workers compensation-related fringe benefit assessments from federal grants and trust accounts to this item; provided further, that the secretary shall identify charges by item; provided further, that not more than \$1,950,000 shall be used for the compensation of employees;

provided further, that the secretary shall file quarterly reports with the house and senate committees on ways and means detailing these items, including federal grants and trust accounts that have not yet paid their charges, and the reasons why, within 3 weeks of the close of each quarter; provided further, that no funds shall be expended from this item that would cause said item to be deficient; provided further, that said secretary shall provide projected costs of workers' compensation costs incurred by agencies in fiscal year 2005 to the house and senate committees on ways and means no later than February 28, 2005; provided further, that in accordance with chapter 177 of the acts of 2001, the secretary of administration and finance shall charge state agencies in fiscal year 2005 as provided in this section for workers' compensation costs, including related administrative expenses incurred on behalf of the employees of said agencies; provided further, that administrative expenses shall be allocated based on each agency's per cent of total workers' compensation benefits paid in fiscal year 2004; provided further, that the personnel administrator shall administer said charges on behalf of said secretary, and may establish such rules and procedures as deemed necessary to implement the provisions of this section; provided further, that the personnel administrator shall: (1) notify agencies regarding the chargeback methodology to be used in fiscal year 2005; (2) notify agencies of the amount of their estimated worker's compensation charges for said fiscal year; and (3) require agencies to encumber funds in an amount sufficient to meet said estimated charges; provided further, that said estimated charges for each agency in said fiscal year shall be not less than the amount of the actual workers' compensation costs, including related administrative expenses, incurred by each such agency in fiscal year 2004, and may include such additional amounts as are deemed necessary under regulations promulgated pursuant to this section; provided further, that for any agency that fails within 30 days of the effective date of this act to encumber funds sufficient to meet said estimated charges, the comptroller shall so encumber funds on behalf of such agency, the personnel administrator shall: (1) determine the amount of the actual workers' compensation costs incurred

by each agency in the preceding month, including related administrative expenses; (2) notify each agency of said amounts; and (3) charge said amounts to each agency's accounts as estimates of the costs to be incurred in the current month; provided further, that notwithstanding any general or special law to the contrary, any balance remaining in the Workers' Compensation Intergovernmental Service Fund, at the close of fiscal year 2004 shall be transferred to the General Fund; provided further, that any unspent balance at the close of fiscal year 2004 in an amount not to exceed 5 per cent of the amount authorized shall remain in the Workers' Compensation Intergovernmental Service Fund and is hereby re-authorized for expenditures for such item in fiscal year 2005; provided further, that the personnel administrator may expend in fiscal year 2005 for hospital, physician, benefit, and other costs related to workers' compensation for employees of state agencies, including administrative expenses; and provided further, that such expenditures may include payments for medical services provided to claimants in prior fiscal years, as well as compensation benefits and associated costs for prior fiscal years . . . . . \$56,355,860

1750-0106 For the workers' compensation litigation unit, including the costs of personnel . . . . . \$595,905

*Division of Operational Services.*

1775-0800 For the purchase, operation and repair of certain vehicles and for the cost of operating and maintaining all vehicles that are leased by other agencies, including the costs of personnel . . . \$7,600,000

1775-1000 For the provision of printing, photocopying, and related graphic art or design work, including all necessary incidental expenses and liabilities; provided, that the commissioner of administration shall charge to other items of appropriation within the agencies of the executive branch for such services, including the costs of personnel . . . . . \$1,000,000

*Division of Information Technology.*

1790-0200 For the cost of computer resources and services provided by the information technology division in accordance with the policies, procedures and rates approved by the secretary for administration and finance, including the purchase, lease or

rental of telecommunications lines, services and equipment, that are centrally billed to the commonwealth; provided, that the secretary shall charge other items of appropriation for the cost of the resources and services; provided further, that notwithstanding any general or special law to the contrary, charges for the cost of computer resources and services provided by the bureau of computer services for the design, development, and production of reports and information related to the analysis, development and production of appropriations bills and other legislation shall not be charged to any item of appropriation of the executive office for administration and finance, the house of representatives, the senate or any joint legislative account in fiscal year 2005; provided further, that the bureau shall submit quarterly reports to the house and senate committees on ways and means summarizing the total charges, payments and services provided for the preceding quarter from each department charged to this item; provided further, that the reports shall include, but not be limited to, a delineation of the rates charged to each department as approved by the secretary for administration and finance for each service performed by the division; and provided further, that the secretary for administration and finance shall establish regulations, procedures and a schedule of fees including, but not limited to, the development and distribution of forms and instructions, including the costs of personnel . . . . . \$49,628,349

1790-0400 For the purchase, delivery, handling of and contracting for supplies, postage and related equipment and other incidental expenses provided pursuant to section 51 of chapter 30 of the General Laws . . . . . \$2,190,000

**EXECUTIVE OFFICE OF ENVIRONMENTAL AFFAIRS.**

2001-1002 For the costs of data processing and related computer and mapping services, the distribution of digital cartographic and other data, the review of environmental notification forms pursuant to sections 61 to 62H, inclusive, of chapter 30 of the General Laws and for the staff and printing of the Environmental Monitor . . . . . \$350,000

2030-1002 For the costs of overtime and special details provided by the of-

fice of fisheries, wildlife and environmental law enforce-  
ment ..... \$160,000

**EXECUTIVE OFFICE OF HEALTH AND HUMAN SERVICES.**

*Massachusetts Commission for the Deaf and Hard of Hearing.*

4125-0122 For the costs of interpreter services provided by commission staff; provided, that the costs of personnel may be charged to this item; and provided further, that for the purpose of accommodating discrepancies between the receipt of retained revenues and related expenditures, the commission may incur expenses and the comptroller may certify for payment amounts not to exceed the lower of this authorization or the most recent revenue estimate as reported in the state accounting system ..... \$160,000

*Department of Public Health.*

4590-0901 For the costs of medical services provided at public health hospitals pursuant to a schedule of services and fees approved by the commissioner of public health, which may be expended for the purposes of hospital related costs, including capital expenditures and motor vehicle replacement ..... \$150,000

4590-0903 For the costs of medical services provided at the department of public health Lemuel Shattuck hospital to inmates of the county correctional facilities; provided, that the costs shall be charged to items 8910-0000, 8910-0010, 8910-0102, 8910-0105, 8910-0107, 8910-0108, 8910-0110, 8910-0145 and 8910-0619 of section 2 pursuant to the provisions thereof; provided further, that expenditures from this item shall be for hospital-related costs including, but not limited to, capital repair and the maintenance and motor vehicle replacement; and provided further, that notwithstanding any general or special law to the contrary, for the purpose of accommodating timing discrepancies between the receipt of retained revenue and related expenditures, the department may incur expenses and the comptroller may certify for payment amounts not to exceed the lower of this authorization or the most recent revenue estimate therefor as reported in the state accounting system ..... \$2,800,000

---

**Chap. 149***Department of Mental Retardation.*

5948-0012 For residential support services provided by the department for the purposes of supplementing educational services provided in item 7061-0012 of section 2 ..... \$7,500,000

**EXECUTIVE OFFICE OF TRANSPORTATION AND CONSTRUCTION.***Department of Highways.*

6030-7501 For the cost of the purchase of bulk fuel for certain vehicles under the authority of the operational services division and the cost of purchased fuel for other agencies and for certain administrative expenses related to purchasing and distributing the fuel ..... \$600,000

**EXECUTIVE OFFICE OF PUBLIC SAFETY.***State Police.*

8100-0002 For the costs of overtime associated with requested police details; provided, that for the purpose of accommodating discrepancies between the receipt of revenues and related expenditures, the department may incur expenses and the comptroller may certify for payment amounts not to exceed the lower of this authorization or the most recent revenue estimate therefor as reported in the state accounting system . . . \$6,481,127

8100-0003 For the costs associated with the use of the statewide telecommunications system for the maintenance of the system ..... \$156,375

*Criminal Justice Training Council.*

8200-1121 For the cost of space rentals, utilities and maintenance at the criminal justice training council's training academies and computer labs ..... \$35,000

*Military Division.*

8700-1145 For the costs of utilities and maintenance and for the implementation of energy conservation measures with regard to the state armories ..... \$500,000

*Department of Correction.*

8900-0021 For the cost of products produced by the prison industries and farm program and for the cost of services provided by inmates, including the costs of moving, auto repair, culinary and

renovation and construction services; provided, that the costs for renovation and construction services shall not exceed the amount established by the department of procurement and general services; and provided further, that such revenues may also be expended for materials, supplies, equipment, maintenance of facilities and compensation of employees and for the inmate employment and training program . . . . . \$6,050,000

**SECTION 2D.** the amounts set forth in this section are hereby appropriated from the General Federal Grants Fund. Federal funds received in excess of the amount appropriated in this section shall be expended only in accordance with section 6B of chapter 29 of the General Laws. The amount of any unexpended balance of federal grant funds received before June 30, 2004, and not included as part of an appropriation item in this section, is hereby made available for expenditure during fiscal year 2005, in addition to any amount appropriated in this section.

**JUDICIARY.**

*Supreme Judicial Court.*

0320-1700 For the purposes of a federally funded grant entitled, State Court Improvement Program . . . . . \$230,000

*Trial Court*

0330-0335 For the purposes of a federally funded grant entitled, Statewide Automated Drug Court . . . . . \$75,000  
0332-6100 For the purposes of a federally funded grant entitled, Brighton District Court Drug Court . . . . . \$165,000  
0335-6100 For the purposes of a federally funded grant entitled, Dorchester Domestic Violence Grant . . . . . \$255,000  
0337-0305 For the purposes of a federally funded grant entitled, Hampden County Juvenile Court Drug Court . . . . . \$180,000

**DISTRICT ATTORNEYS.**

*Suffolk District Attorney*

0340-0114 For the purposes of a federally funded grant entitled, Project Sentry . . . . . \$40,000

*Northern District Attorney.*

0340-0208 For the purposes of a federally funded grant entitled, Community Gun Violence Prosecution . . . . . \$96,000  
0340-0213 For the purposes of a federally funded grant entitled, Federal Forfeiture trust Account . . . . . \$16,000

---

**Chap. 149**

0340-0216 For the purposes of a federally funded grant entitled, Conference Fee Trust Account .....	\$15,000
0340-0237 For the purposes of a federally funded grant entitled, Children's Advocacy Center National Network .....	\$12,250

*Middle District Attorney*

0340-0434 For the purposes of a federally funded grant entitled, Juvenile Accountability Grant .....	\$175,680
------------------------------------------------------------------------------------------------------	-----------

*Western District Attorney*

0340-0513 For the purposes of a federally funded grant entitled, Post Conviction Advocate Grant .....	\$45,646
0340-0528 For the purposes of a federally funded grant entitled, the Byrne grant .....	\$65,000
0340-0531 For the purposes of a federally funded grant entitled, Community Gun Violence Prosecution .....	\$173,549
0340-0534 For the purposes of a federally funded grant entitled, Juvenile Accountability Block Grant Program .....	\$174,780
0340-0540 For the purposes of a federally funded grant entitled, Project Sentry Program .....	\$85,639

*Northwestern District Attorney*

0340-0665 For the purposes of a federally funded grant entitled, Persons with Disabilities & Elder Unit .....	\$174,686
0340-0613 For the purposes of a federally funded grant entitled, Federal Forfeiture trust Account .....	\$88,400

*Plymouth District Attorney.*

0340-0806 For the purposes of a federally funded grant entitled, Weed and Seed .....	\$150,000
0340-0807 For the purposes of a federally funded grant entitled, Federal Community Prosecution grant .....	\$80,000

*Bristol District Attorney.*

0340-0916 For the purposes of a federally funded grant entitled, Federal Forfeiture trust Account .....	\$35,000
0340-0923 For the purposes of a federally funded grant entitled, Community Involvement Project .....	\$148,284

*Cape and Islands District Attorney.*

0340-1013	For the purposes of a federally funded grant entitled, Federal Forfeiture trust Account .....	\$60,000
0340-1034	For the purposes of a federally funded grant entitled, Juvenile Diversion Program .....	\$140,000

**SECRETARY OF STATE.**

0521-0800	For the purpose of a federally funded grant entitled, Election Assistance for Disabled Individuals .....	\$170,154
0526-0114	For the purposes of a federally funded grant entitled, Historic Preservation Survey and Planning .....	\$748,930
0526-0115	For the purposes of a federally funded grant entitled, Massachusetts Historical Commission - Federal Preservation Grants .....	\$200,000

*Massachusetts Cultural Council.*

0640-9716	For the purposes of a federally funded grant entitled, Folk and Traditional Arts Initiative .....	\$12,500
0640-9717	For the purposes of a federally funded grant entitled, Basic State Plan .....	\$394,100
0640-9718	For the purposes of a federally funded grant entitled, Arts Education .....	\$67,900
0640-9724	For the purposes of a federally funded grant entitled, Arts in Underserved Communities .....	\$105,500
0640-9729	For the purposes of a federally funded grant entitled, Challenge America .....	\$97,000

**ATTORNEY GENERAL.**

0810-0012	For the purposes of a federally funded grant entitled, Training to Stop Abuse and Sexual Assault of Older Individuals with Disabilities .....	\$50,000
0810-0026	For the purposes of a federally funded grant entitled, Crime Victim Compensation .....	\$1,142,000
0810-6658	For the purposes of a federally funded grant entitled, Weed and Seed .....	\$25,000

*Victim Witness Assistance Board.*

0840-0020	For the purpose of a federally funded grant entitled, the VAWA STOP Grant .....	\$300,000
-----------	---------------------------------------------------------------------------------	-----------

---

**Chap. 149**

0840-0110 For the purposes of a federally funded grant entitled, Victims of Crime Assistance Programs .....	\$7,767,441
0840-0113 For the purposes of a federally funded grant entitled, The Edward Byrne Memorial Grant .....	\$195,000
0840-4603 For the purposes of a federally funded grant entitled, Youth Advocacy Project .....	\$60,000

**EXECUTIVE OFFICE OF ADMINISTRATION AND FINANCE.***Office of Dispute Resolution.*

1100-1117 For the purposes of a federally funded grant entitled, Agricultural Mediation Matching Grant .....	\$183,090
--------------------------------------------------------------------------------------------------------------	-----------

*Massachusetts Developmental Disabilities Council.*

1100-1703 For the purposes of a federally funded grant entitled, Implementation of the Federal Developmental Disabilities Act; provided, that in order to qualify for this grant, this item shall be exempt from the first \$280,000 of fringe benefit and indirect cost charges pursuant to section 6B of chapter 29 of the General Laws .....	\$2,287,885
-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-------------

*Office on Disability.*

1107-2450 For the purposes of a federally funded grant entitled, Client Assistance Program .....	\$241,336
--------------------------------------------------------------------------------------------------	-----------

*Department of Revenue.*

1201-0104 For the purposes of a federally funded grant entitled, Joint Federal-State Motor Fuel Tax Compliance Project .....	\$3,950
1201-0109 For the purposes of a federally funded grant entitled, Access and Visitation - Parent Education Program .....	\$222,469
1201-0117 For the purposes of a federally funded grant entitled, Child Care Custody Use and Self-Sufficiency Pathways of Low-Income Mothers .....	\$8,390
1201-0412 For the purposes of a federally funded grant entitled, Child Support Enforcement Grants .....	\$205,331
1201-1951 For the purposes of a federally funded grant entitled, Managing Child Support Arrears in Massachusetts .....	\$92,250

**EXECUTIVE OFFICE OF ENVIRONMENTAL AFFAIRS.**  
*Office of the Secretary.*

2000-0120	For the purposes of a federally funded grant entitled, Anti-Idling Education .....	\$6,000
2000-0130	For the purposes of a federally funded grant entitled, Marina Technical Assistance and Managed Measurement .....	\$15,000
2000-0131	For the purposes of a federally funded grant entitled, Cooperating Technical Partner .....	\$30,000
2000-0141	For the purposes of a federally funded grant entitled, Coastal Zone Management Development .....	\$2,595,134
2000-0148	For the purposes of a federally funded grant entitled, National Estuary Program - Operation .....	\$471,457
2000-0177	For the purposes of a federally funded grant entitled, Wetlands Program Development .....	\$80,000
2000-0186	For the purposes of a federally funded grant entitled, Aquatic Nuisance Species Management Plan .....	\$10,000
2000-6063	For the purposes of a federally funded grant entitled, PPIS-Improving Chemical Security .....	\$15,000
2000-9701	For the purposes of a federally funded grant entitled, Outdoor Recreation Projects - Political Subdivisions .....	\$2,400,000
2000-9730	For the purposes of a federally funded grant entitled, Buzzards Bay Conservation & Management Plan .....	\$471,411
2000-9760	For the purposes of a federally funded grant entitled, Inventory of Navy Shipwrecks in Massachusetts Waters .....	\$3,000
2030-0013	For the Joint Enforcement Agreement between the Division of Law Enforcement and the National Marine Fisheries for enforcement of both Federal and State commercial fishing regulations .....	\$458,605
2030-0108	For the purposes of a federally funded grant entitled, Fisheries Enforcement Support Services .....	\$45,500
2030-9701	For the purposes of a federally funded grant entitled, Safe Boating Program .....	\$934,890

*Department of Environmental Protection.*

2200-9706	For the purposes of a federally funded grant entitled, Water Quality Management Planning .....	\$547,631
2200-9712	For the purposes of a federally funded grant entitled, Cooperative Agreement-Leaking Underground Storage Tank Program .....	\$983,689
2200-9717	For the purposes of a federally funded grant entitled, D.O.D. Environment Restoration Program .....	\$1,372,000

---

**Chap. 149**

2200-9721 For the purposes of a federally funded grant entitled, Charles George Landfill - Operable Unit III Operations and Maintenance .....	\$12,746
2200-9722 For the purposes of a federally funded grant entitled, Baird and McGuire .....	\$885,928
2200-9724 For the purposes of a federally funded grant entitled, Superfund Block Fund Cooperative Agreement .....	\$966,510
2200-9728 For the purposes of a federally funded grant entitled, Brownfields Assessment Program - multi-site .....	\$360,958
2200-9729 For the purposes of a Federally funded grant entitled, Brownfields Pilots Cooperative Agreement .....	\$8,403
2200-9730 For the purposes of a federally funded grant entitled, MMR Impact Area Groundwater Study .....	\$379,454
2200-9731 For the purposes of a federally funded grant entitled, Brownfield Response Cooperative .....	\$1,368,049
2230-9702 For the purposes of a federally funded grant entitled, Performance Partnership Grant .....	\$15,127,959
2230-9705 For the purposes of a federally funded grant entitled, National Environmental Readiness Grant .....	\$113,000
2230-9706 For the purposes of a federally funded grant entitled, National Environmental Network Challenge Grant .....	\$28,576
2240-9760 For the purposes of a federally funded grant entitled, Charles River Categorical Grant .....	\$2,500
2240-9762 For the purposes of a federally funded grant entitled, Reimbursement Operators Small Water Systems .....	\$79,000
2240-9764 For the purposes of a federally funded grant entitled, 3% Set aside - Special Appropriation .....	\$22,923
2240-9765 For the purposes of a federally funded grant entitled, Water Protection Coordination Grants to States .....	\$41,100
2240-9767 For the purposes of a federally funded grant entitled, Assabet River Watershed Project .....	\$40,000
2240-9769 For the purposes of a federally funded grant entitled, Estuaries Watershed Permitting .....	\$103,840
2250-9712 For the purposes of a federally funded grant entitled, Clean Air Act .....	\$685,531
2250-9715 For the purposes of a federally funded grant entitled, Municipal Environmental Compliance Grant .....	\$6,751
2250-9716 For the purposes of a federally funded grant entitled, Ambient Air Toxics Pilot Project .....	\$43,086
2250-9717 For the purposes of a federally funded grant entitled, Evaluation Outcomes .....	\$77,330

**Chap. 149**

2250-9718	For the purposes of a federally funded grant entitled, Environmental Results Automation .....	\$48,670
2250-9719	For the purposes of a federally funded grant entitled, EMS Development in Public Schools .....	\$5,000
2250-9721	For the purposes of a federally funded grant entitled, Biowatch Monitoring .....	\$452,589
2250-9722	For the purposes of a federally funded grant entitled, Supermarket Recycling of Food Waste .....	\$4,188

*Department of Fish and Game.*

2300-0112	For the purposes of federal funds from USFW to further River Restore's survey, planning, design and educational work .....	\$60,000
2300-9704	For the purposes of a federally funded grant entitled, 319 Nonpoint Source Pollution .....	\$39,833
2310-0115	For the purposes of a federally funded grant entitled, Land Owner Incentive Program .....	\$180,000
2310-0116	For the purposes of a federally funded grant entitled, Land Owner Incentive Program .....	\$900,000
2310-0117	For the purposes of a federally funded grant entitled, Chronic Wasting Disease .....	\$8,920
2330-9222	For the purposes of a federally funded grant entitled, Clean Vessel .....	\$926,400
2330-9709	For the purposes of a federally funded grant entitled, Commercial Fisheries Research and Development .....	\$35,000
2330-9712	For the purposes of a federally funded grant entitled, Commercial Fisheries Statistics .....	\$618,000
2330-9713	For the purposes of a federally funded grant entitled, Right Whale Preservation and Protection Program .....	\$156,000
2330-9714	For the purposes of a federally funded grant entitled, Commercial Fisheries Extension .....	\$91,000
2330-9721	For the purposes of a federally funded grant entitled, Anadromous Fisheries Management .....	\$4,797
2330-9725	For the purposes of a federally funded grant entitled, Boating Infrastructure .....	\$300,000
2330-9726	For the purposes of a federally funded grant entitled, Lobster Trap Escape Vent Selectivity .....	\$47,700
2330-9727	For the purposes of a federally funded grant entitled, Reducing Blue Shark Bycatch in Pelagic Longline Fisheries .....	\$53,050
2330-9728	For the purposes of a federally funded grant entitled, Monkfish Cooperative Research Project: Gillnet & Study Fleet .....	\$290,445

---

**Chap. 149**

2330-9730	For the purposes of a federally funded grant entitled, Interstate Fisheries Management Support .....	\$233,956
2330-9731	For the purposes of a federally funded grant entitled, Biological Characterization of Mass. Scup Fisheries .....	\$71,082
2330-9732	For the purposes of a federally funded grant entitled, ACCSP Implementation Strategic Plan .....	\$36,691
2330-9733	For the purposes of a federally funded grant entitled, Further Testing of Cod Avoiding Trawl Net Design .....	\$318,760
2330-9734	For the purposes of a federally funded grant entitled, Pilot Industry Based Survey Implementation .....	\$750,980
2330-9735	For the purposes of a federally funded grant entitled, MA Multispecies Fishery Economic Assistance .....	\$5,500,000

*Department of Agricultural Resources.*

2511-0310	For the purposes of a federally funded grant entitled, Pesticide Enforcement .....	\$164,542
2511-0320	For the purposes of a federally funded grant entitled, Certification of Pesticide Applicators .....	\$122,717
2511-0335	For the purposes of a federally funded grant entitled, Integrated Pest Management Schools Day Care Centers .....	\$66,667
2511-0400	For the purposes of a federally funded grant entitled, Cooperative Pest Survey Program .....	\$27,087
2511-0401	For the purposes of a federally funded grant entitled, Cooperative Pesticide Recordkeeping Program .....	\$19,625
2511-0972	For the purposes of a federally funded grant entitled, Farmland Protection .....	\$2,364,000
2511-1022	For the purposes of a federally funded grant entitled, Mad Cow Disease Enhanced Surveillance .....	\$79,090
2511-1023	For the purposes of a federally funded grant entitled, Enhanced Surveillance of Swine Garbage Feeding Operations .....	\$38,000
2515-1002	For the purposes of a federally funded grant entitled, Animal Disease Surveillance Homeland Security .....	\$16,328
2515-1003	For the purposes of a federally funded grant entitled, Voluntary Johnes Disease Control .....	\$60,000
2515-1004	For the purposes of a federally funded grant entitled, Scrapie Disease Surveillance .....	\$5,000
2516-9002	For the purposes of a federally funded grant entitled, Development of Institutional Marketing .....	\$30,301
2516-9003	For the purposes of a federally funded grant entitled, Farmer's Market Coupon Program .....	\$607,229

**Chap. 149**

2516-9004	For the purposes of a federally funded grant entitled, Senior Farmers Market Nutrition Program .....	\$56,900
2516-9007	For the purposes of a federally funded grant entitled, Organic Cost-Share Program .....	\$20,000

*Department of Conservation and Recreation*

2800-9707	For the purposes of a federally funded grant entitled, National Flood Insurance Program .....	\$168,000
2800-9720	For the purposes of a federally funded grant entitled, Blackstone Heritage Corridor Commission Cooperative Agreement .....	\$58,708
2800-9725	For the purposes of a federally funded grant entitled, FEMA National Dam Safety Program .....	\$74,492
2800-9727	For the purposes of a federally funded grant entitled, Pier Repair - Gallops Island Boston Harbor Islands Partnership Cooperative .....	\$23,000
2800-9728	For the purposes of a federally funded grant entitled, Rehabilitation Services - Inspired .....	\$130,608
2800-9730	For the purposes of a federally funded grant entitled, State Park for Everyone Rehabilitation Services .....	\$50,806
2820-9702	For the purposes of a federally funded grant entitled, Rural Community Fire Protection .....	\$67,225
2821-9705	For the purposes of a federally funded grant entitled, Shade Tree and Forest Health .....	\$507,472
2821-9709	For the purposes of a federally funded grant entitled, Forestry Planning .....	\$2,643,408
2821-9710	For the purposes of a federally funded grant entitled, Forest Land Enhancement .....	\$69,837
2821-9711	For the purposes of a federally funded grant entitled, Rural Fire Prevention and Control .....	\$240,110
2821-9712	For the purposes of a federally funded grant entitled, Forest Health Research .....	\$17,873
2821-9713	For the purposes of a federally funded grant entitled, Wildland Urban Interface Fuels Management in Southeastern Massachusetts .....	\$549,506
2821-9722	For the purposes of a federally funded grant entitled, Forest Resource Management - US Forest Service .....	\$46,000
2821-9726	For the purposes of a federally funded grant entitled, Forest Health Management - US Forest Service .....	\$104,500
2830-9731	For the purposes of a federally funded grant entitled, Forest Health Management - USFWS Coastal Wetlands .....	\$1,357,000

---

## Chap. 149

2840-9709	For the purposes of a federally funded grant entitled, Waquoit Bay National Estuarine Research Reserve Consolidated Funding .....	\$558,343
2840-9714	For the purposes of a federally funded grant entitled, Waquoit Bay Land Acquisition - National Estuarine Research Reserve .....	\$1,460,200
2840-9757	For the purposes of a federally funded grant entitled, Lower Neponset River Estuary Salt Marsh Restoration .....	\$425,500
2840-9760	For the purposes of a federally funded grant entitled, Minuteman Commuter Bikeway .....	\$100,000
2840-9761	For the purposes of a federally funded grant entitled, Arlington-to-Boston Bike Path .....	\$150,000

### EXECUTIVE OFFICE OF HEALTH AND HUMAN SERVICES.

#### *Office of the Secretary.*

4000-0707	For the purposes of a federally funded grant entitled, Supportive Housing .....	\$100,000
4000-0708	For the purposes of a federally funded grant entitled, Head Start Demonstration .....	\$264,699
4000-0713	For the purposes of a federally funded grant entitled, Youth Development State Collaboration .....	\$153,887
4000-9401	For the purposes of a federally funded grant entitled, Community Mental Health Services .....	\$9,931,056
4000-9402	For the purposes of a federally funded grant entitled, Substance Abuse Prevention and Treatment Block Grant .....	\$39,550,224
4000-9404	For the purposes of a federally funded grant entitled, McKinney Shelter Plus Care .....	\$1,800,000
4003-0804	For the purposes of a federally funded grant entitled, Refugee Targeted Assistance Grant .....	\$1,741,173
4003-0805	For the purposes of a federally funded grant entitled, Refugee Resettlement Program .....	\$553,190
4003-0806	For the purposes of a federally funded grant entitled, Refugee Cash, Medical, and Administration .....	\$12,741,811
4003-0807	For the purposes of a federally funded grant entitled, State Legalization Impact Assistance Grant .....	\$218,295

#### *Department of Veterans Services*

1410-0254	For the purposes of a federally funded grant entitled, Homeless Veterans Reintegration - Training and Placement - statewide .....	\$150,000
-----------	-----------------------------------------------------------------------------------------------------------------------------------	-----------

---

**Chap. 149**

1410-0255	For the purposes of a federally funded grant entitled, Veterans Reintegration, Training, and Placement - Urban .....	\$223,739
1410-0256	For the purposes of a federally funded grant entitled, Veterans Workforce Investment Program .....	\$850,000
1410-0257	For the purposes of a federally funded grant entitled, Homeless Veterans Reintegration Program - Training and Placement - Springfield .....	\$229,000
1410-8001	For the purposes of a federally funded grant, entitled, Winchendon State Veterans' Cemetery .....	\$1,922,013

*Massachusetts Commission for the Blind*

4110-3020	For the purposes of a federally funded grant entitled, Vocational Rehabilitation; provided, that no funds shall be deducted for pensions, group health and life insurance or any other such indirect cost of federally reimbursed state employees .....	\$310,350
4110-3021	For the purposes of a federally funded grant entitled, Basic Support Grant .....	\$7,805,495
4110-3023	For the purposes of a federally funded grant entitled, Independent Living - Adaptive Housing .....	\$72,380
4110-3026	For the purposes of a federally funded grant entitled, Independent Living - Services to Older Blind Americans .....	\$674,470
4110-3027	For the purposes of a federally funded grant entitled, Rehabilitation Training .....	\$21,280
4110-3028	For the purposes of a federally funded grant entitled, Supported Employment .....	\$150,790

*Massachusetts Rehabilitation Commission*

4120-0020	For the purposes of a federally funded grant entitled, Vocational Rehabilitation; provided, that no funds shall be deducted for pensions, group health and life insurance or any other such indirect cost of federally reimbursed state employees .....	\$40,000,000
4120-0187	For the purposes of a federally funded grant entitled, Supported Employment Program .....	\$880,000
4120-0189	For the purposes of a federally funded grant entitled, Special Projects and Demonstrations for providing Vocational Rehabilitation Services to individuals with severe disabilities in Massachusetts .....	\$370,000
4120-0191	For the purposes of a federally funded grant entitled, Informed Members Planning and Assessing Choices Together (IMPACT) .....	\$460,000

---

**Chap. 149**

4120-0192 For the purposes of a federally funded grant entitled, Developmental Disabilities .....	\$52,000
4120-0193 For the purposes of a federally funded grant entitled, Workforce Coordinating Grant for the Multi -Disabled .....	\$150,000
4120-0511 For the purposes of a federally funded grant entitled, Vocational Rehabilitation - Determination of Disability .....	\$34,500,000
4120-0605 For the purposes of a federally funded grant entitled, Minority Outreach for People With TBI in Massachusetts .....	\$315,000
4120-0760 For the purposes of a federally funded grant entitled, Independent Living .....	\$1,670,000
4120-0766 For the purposes of a federally funded grant entitled, Assistive Technology Loan Program .....	\$400,000

*Massachusetts Commission for the Deaf and Hard of Hearing*

4125-0103 For the purposes of a federally funded grant entitled, Massachusetts Assistive Technology Partnership .....	\$394,796
-----------------------------------------------------------------------------------------------------------------------	-----------

*Department of Mental Retardation*

5947-0007 For the purposes of a federally funded grant entitled, Massachusetts Bridges to Community Project .....	\$157,020
5947-0008 For the purposes of a federally funded grant entitled, Community Integrated Personal Assistant Services .....	\$241,325
5947-0009 For the purposes of a federally funded grant entitled, Family Support .....	\$25,000

**OFFICE OF CHILDREN, YOUTH AND FAMILIES***Office of Child Care Services*

4130-2010 For the purposes of a federally funded grant entitled, Behavior Health Child Care Inclusion Project .....	\$99,450
4130-2015 For the purposes of a federally funded grant entitled, Child Care Research, Analysis and Evaluation Project .....	\$249,600

*Children's Trust Fund*

4130-9002 For the purposes of a federally funded grant entitled, Child Abuse Prevention Activities .....	\$683,693
----------------------------------------------------------------------------------------------------------	-----------

*Department of Youth Services*

4200-1621 For the purposes of a federally funded grant entitled, Serious and Violent Offender Reentry Initiative .....	\$333,333
------------------------------------------------------------------------------------------------------------------------	-----------

*Department of Transitional Assistance.*

4400-0705	For the purpose of a federally funded grant entitled, Emergency Shelter Grants .....	\$2,521,345
4400-0707	For the purpose of a federally funded grant entitled Continuum of Care .....	\$7,130,765
4400-3067	For the purpose of a federally funded grant entitled, Food Stamp Employment and Training .....	\$460,000
4400-3069	For the purpose of a federally funded grant entitled, Full Employment Food Stamp Cash-Out .....	\$25,000

*Department of Social Services*

4800-0005	For the purposes of a federally funded grant entitled, Children's Justice Act .....	\$360,841
4800-0007	For the purposes of a federally funded grant entitled, The Family Violence Prevention and Support Services Act .....	\$1,854,981
4800-0009	For the purposes of a federally funded grant entitled, Title IV-E Independent Living .....	\$2,904,616
4800-0013	For the purposes of a federally funded grant entitled, Family Preservation and Support Services .....	\$5,479,505
4800-0085	For the purposes of a federally funded grant entitled, Educational & Training Voucher Program .....	\$927,371
4800-0086	For the purposes of a federally funded grant entitled, Adoption Opportunities Grant .....	\$350,000
4800-0087	For the purposes of a federally funded grant entitled, Supervised Visitation and Safe Exchange Grant .....	\$374,745
4800-1634	For the purposes of a federally funded grant entitled, Teen Living Program - Father's Outreach Program .....	\$487,827
4899-0001	For the purposes of a federally funded grant entitled, Title IV-B Child Welfare Services .....	\$4,530,155
4899-0022	For the purposes of a federally funded grant entitled, Child Abuse and Neglect Prevention and Treatment .....	\$466,699

**OFFICE OF HEALTH SERVICES***Department of Public Health.*

4500-1000	For the purposes of a federally funded grant entitled, Preventive Health Services Block Grant .....	\$3,720,978
4500-1050	For the purposes of a federally funded grant entitled, Rape Prevention and Education .....	\$1,166,076
4500-1055	For the purposes of a federally funded grant entitled, Violence Against Women Planning Implementation .....	\$50,000

---

**Chap. 149**

4500-2000	For the purposes of a federally funded grant entitled, Maternal and Child Health Services Block Grant .....	\$13,854,016
4502-1012	For the purposes of a federally funded grant entitled, Cooperative Health Statistics System .....	\$510,691
4510-0109	For the purposes of a federally funded grant entitled, State Loan Repayment Project .....	\$250,000
4510-0113	For the purposes of a federally funded grant entitled, Office of Rural Health .....	\$150,000
4510-0118	For the purposes of a federally funded grant entitled, Primary Care Cooperative Agreement .....	\$112,200
4510-0119	For the purposes of a federally funded grant entitled, Rural Hospital Flexibility Program .....	\$312,793
4510-0219	For the purposes of a federally funded grant entitled, Small Rural Hospital Improvement Program .....	\$84,000
4510-0220	For the purposes of a federally funded grant entitled, Children's Oral Health Access Program .....	\$75,000
4510-0400	For the purposes of a federally funded grant entitled, Medicare and Medicaid Survey and Certification .....	\$7,754,413
4510-0403	For the purposes of a federally funded grant entitled, Mass Reporting System Evaluate Effects .....	\$1,379,259
4510-0404	For the purposes of a federally funded grant entitled, Bioterrorism Hospital Preparedness .....	\$9,558,419
4510-0500	For the purposes of a federally funded grant entitled, Clinical Laboratory Improvement Amendments .....	\$211,760
4510-0619	For the purposes of a federally funded grant entitled, FDA Inspection of Food Establishments .....	\$153,622
4510-0629	For the purposes of a federally funded grant entitled, Harold Rogers Prescription Drug monitoring .....	\$111,500
4510-0634	For the purposes of a federally funded grant entitled, Food Safety Task Force Meeting .....	\$5,000
4510-0636	For the purposes of a federally funded grant entitled, Childhood Lead Paint Poisoning Prevention .....	\$1,353,822
4510-0792	For the purposes of a federally funded grant entitled, Trauma EMS-Maternal and Child Health .....	\$4,837
4510-0793	For the purposes of a federally funded grant entitled, RURAL Automatic External Defibrillator .....	\$127,330
4510-9014	For the purposes of a federally funded grant entitled, Mammography Quality Standards Act Inspections .....	\$164,636
4510-9040	For the purposes of a federally funded grant entitled, Diabetes Control Program .....	\$822,098

---

**Chap. 149**

4510-9043	For the purposes of a federally funded grant entitled, Demonstration Program to Conduct Toxic Waste Site Health Impact Assessments .....	\$697,017
4510-9048	For the purposes of a federally funded grant entitled, Indoor Radon Development Program .....	\$213,300
4510-9052	For the purposes of a federally funded grant entitled, Tremolite Asbestos Exposure .....	\$7,135
4510-9053	For the purposes of a federally funded grant entitled, Beaches Environmental Assessment .....	\$317,698
4510-9056	For the purposes of a federally funded grant entitled, National Environmental Public Health Tracking .....	\$568,205
4510-9062	For the purposes of a federally funded grant entitled, Prevalence of ALS and MS in Commonwealth Around Hazardous Waste Sites .....	\$83,824
4512-0102	For the purposes of a federally funded grant entitled, Sexually Transmitted Disease Control .....	\$1,954,346
4512-0107	For the purposes of a federally funded grant entitled, HIV Risk Behavior Surveillance .....	\$107,445
4512-0179	For the purposes of a federally funded grant entitled, Vaccination Assistance Project .....	\$5,360,439
4512-0180	For the purposes of a federally funded grant entitled, Epidemiology and Lab Surveillance .....	\$1,897,390
4512-0184	For the purposes of a federally funded grant entitled, Integration of Viral Hepatitis Prevention Services into Existing Prevention Programs .....	\$386,117
4512-9061	For the purposes of a federally funded grant entitled, State Data Infrastructure Program .....	\$144,064
4512-9062	For the purposes of a federally funded grant entitled, MH/Substance Abuse Emergency Response .....	\$99,500
4512-9426	For the purposes of a federally funded grant entitled, Uniform Alcohol and Drug Abuse Data Collection .....	\$81,176
4513-0111	For the purpose of a federally funded grant entitled, Housing Opportunities-People with AIDS .....	\$1,791,000
4513-9007	For the purposes of a federally funded grant entitled, Nutritional Status of Women, Infants, and Children (WIC) .....	\$64,654,143
4513-9018	For the purposes of a federally funded grant entitled, Augmentation and Evaluation of Established Health Education - Risk Reduction .....	\$11,032,176
4513-9019	For the purposes of a federally funded grant entitled, HIV Testing-Regular Medical Services .....	\$321,370

---

**Chap. 149**

4513-9021 For the purposes of a federally funded grant entitled, Program for Infants and Toddlers with Handicaps .....	\$8,412,100
4513-9022 For the purposes of a federally funded grant entitled, Prevention Disability State Based Project .....	\$387,000
4513-9027 For the purposes of a federally funded grant entitled, MassCare - Community AIDS Resource Enhancement .....	\$888,693
4513-9030 For the purposes of a federally funded grant entitled, Planning a Comprehensive Primary Care System for All Mass Children and Youth .....	\$100,000
4513-9035 For the purposes of a federally funded grant entitled, AIDS Surveillance and Seroprevalence Project .....	\$1,026,213
4513-9037 For the purposes of a federally funded grant entitled, Ryan White Comprehensive AIDS Resources .....	\$24,335,640
4513-9038 For the purposes of a federally funded grant entitled, Shelter Plus Care - Worcester .....	\$190,512
4513-9046 For the purposes of a federally funded grant entitled, Congenital Anomalies Center of Excellence .....	\$1,165,000
4513-9050 For the purposes of a federally funded grant entitled, Max Care - Maximizing Children's Health and Safety in Child Care .....	\$50,000
4513-9051 For the purposes of a federally funded grant entitled, Rural Domestic Violence and Children Victimization Project .....	\$465,560
4513-9060 For the purposes of a federally funded grant entitled, Residential Fire Injury Prevention - Mass Injury Intervention and Surveillance .....	\$180,000
4513-9061 For the purposes of a federally funded grant entitled, Abstinence Education Project .....	\$739,012
4513-9066 For the purposes of a federally funded grant entitled, Universal Newborn Hearing Screening-Enhancement Project .....	\$139,800
4513-9069 For the purposes of a federally funded grant entitled, HIV Intervention Care Demonstration - Incarcerated .....	\$250,000
4513-9071 For the purposes of a federally funded grant entitled, Early Hearing Detection and Intervention (EHDI) Tracking and Research .....	\$152,000
4513-9072 For the purposes of a federally funded grant entitled, Intimate Partner Violence Among Racial and Ethnic Minority Populations .....	\$559,169
4513-9073 For the purposes of a federally funded grant entitled, Massachusetts Medical Home Project .....	\$197,962
4513-9074 For the purposes of a federally funded grant entitled, Genetics Services Project .....	\$356,768

**Chap. 149**

4513-9075	For the purposes of a federally funded grant entitled, Alcohol Screening During Pregnancy - Replicating Lessons Learned . . .	\$150,000
4513-9076	For the purposes of a federally funded grant entitled, Early Childhood Comprehensive Systems . . . . .	\$100,000
4513-9077	For the purposes of a federally funded grant entitled, Emergency Medical Services for Children Partnership II . . . . .	\$100,000
4513-9078	For the purposes of a federally funded grant entitled, Asthma Planning Collaborative . . . . .	\$200,000
4513-9102	For the purposes of a federally funded grant entitled, Emergency Medical Services Children Partnership . . . . .	\$100,000
4514-1001	For the purposes of a federally funded grant entitled, Cultural Perspective -Obesity Among Hispanic Participants . . . . .	\$39,982
4514-1004	For the purposes of a federally funded grant entitled, Emotion Based Messages to Promote Healthy Behavior . . . . .	\$135,907
4515-0115	For the purposes of a federally funded grant entitled, Tuberculosis Control Project . . . . .	\$3,107,101
4515-0121	For the purposes of a federally funded grant entitled, Tuberculosis Epidemiological Studies and Consortium . . . . .	\$126,233
4515-0200	For the purposes of a federally funded grant entitled, STD/HIV Prevention Training Centers . . . . .	\$482,684
4515-0202	For the purposes of a federally funded grant entitled, Monitoring Prevalence of STD and TB in Corrections Facilities . . . . .	\$50,914
4515-0203	Prevalence of STD, TB and HIV Risk Behavior Among MSM . . . . .	\$44,828
4516-1018	For the purposes of a federally funded grant entitled, Lyme Disease Research and Education . . . . .	\$594,612
4516-1019	For the purposes of a federally funded grant entitled, Laboratory Biomonitoring Planning . . . . .	\$399,826
4516-1021	For the purposes of a federally funded grant entitled, Public Health Preparedness and Response for Bioterrorism . . . . .	\$26,660,992
4518-0505	For the purposes of a federally funded grant entitled, Tech Data & Mass Birth/Infant Death File Linkage/Analysis Assistive Reproductive . . . . .	\$49,509
4518-0506	For the purposes of a federally funded grant entitled, Core Injury Surveillance Phase III . . . . .	\$180,000
4518-0507	For the purposes of a federally funded grant entitled, Core Injury Surveillance Phase II . . . . .	\$132,000
4518-0508	For the purposes of a federally funded grant entitled, Statewide Injury Surveillance Evaluation . . . . .	\$60,000
4518-0509	For the purposes of a federally funded grant entitled, Occupational Health Surveillance Low Incomes . . . . .	\$156,000

---

**Chap. 149**

4518-0513	For the purposes of a federally funded grant entitled, Occupational Injuries to Under Age 18 Youth - Enhancement Surveillance .....	\$126,281
4518-0514	For the purposes of a federally funded grant entitled, National Violent Death Reporting System .....	\$280,000
4518-0532	For the purposes of a federally funded grant entitled, Core Occupational Health Surveillance .....	\$338,153
4518-1000	For the purposes of a federally funded grant entitled, Procurement of Information for the National Death Index .....	\$43,598
4518-1002	For the purposes of a federally funded grant entitled, Massachusetts Death File - Social Security Administration .....	\$79,300
4518-1003	For the purposes of a federally funded grant entitled, Massachusetts Birth Records - Social Security Administration .....	\$370,101
4518-9022	For the purposes of a federally funded grant entitled, Sentinel Event Notification System for Occupational Risks .....	\$152,324
4518-9023	For the purposes of a federally funded grant entitled, Census of Fatal Occupational Injuries .....	\$36,000
4518-9025	For the purposes of a federally funded grant entitled, Fatality Surveillance and Field Investigations .....	\$125,466
4570-1509	For the purposes of a federally funded grant entitled, Massachusetts Cardiovascular Disease Prevention .....	\$360,000
4570-1511	For the purposes of a federally funded grant entitled, Massachusetts Pass Key to Women's Health .....	\$100,000
4570-1512	For the purposes of a federally funded grant entitled, National Cancer Prevention Control .....	\$5,714,163
4570-1515	For the purposes of a federally funded grant entitled, Chronic Diseases Prevention and Health Promotion .....	\$4,055,103
4590-0306	For the purposes of a federally funded grant entitled, Design & Characterization of Cigarettes .....	\$234,830

*Department of Mental Health*

5012-9121	For the purposes of a federally funded grant entitled, Project for Assistance in Transition from Homelessness .....	\$1,299,036
5012-9154	For the purposes of a federally funded grant entitled, Disaster Relief .....	\$135,000
5012-9156	For the purposes of a federally funded grant entitled, Crisis Counseling Program - 9/11 Attacks .....	\$659,000
5014-9105	For the purposes of a federally funded grant entitled, Data Infrastructure .....	\$75,000

**Chap. 149**

5046-9102 For the purposes of a federally funded grant entitled, Shelter Plus Care Program .....	\$144,240
5047-9101 For the purposes of a federally funded grant entitled, Worcester Communities of Care for Youth .....	\$2,000,000

**EXECUTIVE OFFICE OF TRANSPORTATION AND CONSTRUCTION.**

*Office of the Secretary.*

6000-0018 For the purposes of a federally funded grant entitled, Rural Public Transportation Assistance .....	\$2,775,856
6000-0019 For the purposes of a federally funded grant entitled, Section 5307 Transportation Demand Management .....	\$400,000
6000-0020 For the purposes of a federally funded grant entitled, Jobs Access Reverse Commute .....	\$564,223
6000-0023 For the purposes of a federally funded grant entitled, Rural Public Transportation Planning Grant .....	\$2,950,060
6000-0049 For the purposes of a federally funded grant entitled, Elderly and Handicapped Transportation Capital Grant .....	\$2,470,111

*Massachusetts Aeronautics Commission.*

6006-0042 For the purposes of a federally funded grant entitled, Airport System Planning .....	\$400,000
------------------------------------------------------------------------------------------------	-----------

*Board of Library Commissioners.*

7000-9700 For the purposes of a federally funded grant entitled, Federal Reserve - Title I .....	\$169,000
7000-9702 For the purposes of a federally funded grant entitled, Library Service Technology Act .....	\$3,500,000

*Department of Labor and Workforce Development.*

7002-4201 For the purposes of a federally funded grant entitled, Quality Child Care Initiative .....	\$90,426
7002-4202 For the purposes of a federally funded grant entitled, Tools for Schools Program Support .....	\$10,000
7002-4203 For the purposes of a federally funded grant entitled, Occupational Safety and Health Administration Statistics Program .....	\$114,106
7002-4204 For the purposes of a federally funded grant entitled, Adult Blood Lead Levels Surveillance .....	\$23,991
7002-4212 For the purposes of a federally funded grant entitled, Asbestos Licensing and Monitoring .....	\$107,640

---

**Chap. 149**

7002-4213	For the purposes of a federally funded grant entitled, Lead Licensing and Monitoring .....	\$244,978
7002-4215	For the purposes of a federally funded grant entitled, Occupational Illness and Injury .....	\$93,309
7002-4216	For the purpose of a federally funded grant entitled, Lead Enforcement Cooperation Agreement .....	\$78,080
7002-6627	For the purposes of a federally funded grant entitled, Occupational Safety and Health Administration Onsite Consultation Program .....	\$1,397,346
7002-9701	For the purposes of a federally funded grant entitled, Federal Bureau of Labor Statistics .....	\$2,114,830
7003-1010	For the purposes of a federally funded grant entitled, Trade Expansion Act Program .....	\$6,727,500
7003-1630	For the purpose of a federally funded grant entitled, Workforce Investment Act Title I-Adult Activities .....	\$11,861,298
7003-1631	For the purpose of a federally funded grant entitled, Workforce Investment Act Title I-Youth Formula Grants .....	\$19,602,697
7003-1632	For the purpose of a federally funded grant entitled, Workforce Investment Act Title I-Dislocated Workers .....	\$31,389,887
7003-1633	For the purposes of a federally funded grant entitled, Workforce Investment Act Title I - Disability grant .....	\$130,000
7003-1634	For the purposes of a federally funded grant entitled, Workforce Investment Act Title V - Incentive Grant .....	\$2,000,000
7003-2013	For the purposes of a federally funded grant entitled, Mine Safety and Health Training .....	\$67,720

*Department of Housing and Community Development.*

7004-0304	For the purposes of a federally funded grant entitled, Lead-Based Paint Control Program .....	\$1,093,180
7004-2030	For the purposes of a federally funded grant entitled, Weatherization Assistance for Low Income Persons; provided, that consistent with applicable federal regulations and the state plan, the department of housing and community development may provide monthly payments in advance to participating agencies .....	\$6,644,629
7004-2033	For the purposes of a federally funded grant entitled, Low Income Home Energy Assistance Program; provided, that consistent with applicable federal regulations and the state plan, the department of housing and community development shall provide monthly payments in advance to participating agencies ..	\$75,118,510

Chap. 149

7004-2034	For the purposes of a federally funded grant entitled, Community Services Block Grant; provided, that consistent with applicable federal regulations and the state plan, the department of housing and community development may provide monthly payments in advance to participating agencies .....	\$17,007,939
7004-2035	For the purposes of a federally funded grant entitled, Community Service Block Grant Training and Technical Assistance .....	\$37,380
7004-3037	For the purposes of a federally funded grant entitled, Small Cities Community Development Block Grant Program; provided, that consistent with applicable federal regulations and the state plan, the department of housing and community development may provide monthly payments in advance to participating agencies .....	\$46,800,634
7004-9009	For the purposes of a federally funded grant entitled, Section 8 Substantial Rehabilitation Program; provided, that the department of housing and community development may provide monthly payments in advance to participating agencies .....	\$6,800,000
7004-9014	For the purposes of a federally funded grant entitled, Section 8 Federal Housing Voucher Program; provided, that the department of housing and community development may provide monthly payments in advance to participating agencies .....	\$198,000,000
7004-9019	For the purposes of a federally funded grant entitled, Section 8 Moderate Rehabilitation; provided, that the department of housing and community development may provide monthly payments in advance to participating agencies .....	\$10,000,000
7004-9020	For the purposes of a federally funded grant entitled, Section 8 New Construction Program; provided, that the department of housing and community development may provide monthly payments in advance to participating agencies .....	\$5,800,000
7004-9028	For the purposes of a federally funded grant entitled, Home Investment Partnerships; provided, that consistent with applicable federal regulations and the state plan, the department of housing and community development may provide monthly payments in advance to participating agencies .....	\$18,462,518
7004-9039	For the purposes of a federally funded grant entitled, HOME Technical Assistance .....	\$120,000

---

**Chap. 149**

7004-9051	For the purposes of a federally funded grant entitled, Shelter Plus Care-Lowell; provided, that consistent with applicable federal regulations and the state plan, the department of housing and community development may provide monthly payments in advance to participating agencies . . . . .	\$26,000
7004-9404	For the purposes of a federally funded grant, entitled, McKinney Shelter Plus Care; provided, that consistent with applicable federal regulations and the state plan, the department of housing and community development may provide monthly payments in advance to participating agencies . . . . .	\$1,900,827

*Department of Telecommunications and Energy*

7006-9000	For the purposes of a federally funded grant entitled, Motor Carrier Safety Assistance . . . . .	\$2,803
7006-9001	For the purposes of a federally funded grant entitled, One Call Project . . . . .	\$6,918
7006-9002	For the purposes of a federally funded grant entitled, Pipeline Security . . . . .	\$456,190

*Division of Energy Resources.*

7006-9215	For the purposes of a federally funded grant entitled, Rebuild Massachusetts Communities . . . . .	\$120,000
7006-9210	For the purposes of a federally funded grant entitled, Revitalizing Brockton . . . . .	\$9,805
7006-9215	For the purposes of a federally funded grant entitled, Rebuild Massachusetts . . . . .	\$120,000
7006-9216	For the purposes of a federally funded grant entitled, City of Boston Municipal Energy Program . . . . .	\$40,000
7006-9218	For the purposes of a federally funded grant entitled, Mystic Valley Combined Heat . . . . .	\$37,988
7006-9219	For the purposes of a federally funded grant entitled, Industry of the Future . . . . .	\$100,000
7006-9220	For the purposes of a federally funded grant entitled, Potential for Wind Energy . . . . .	\$61,225
7006-9221	For the purposes of a federally funded grant entitled, SEP Regional Conference/Workshop . . . . .	\$18,939
7006-9222	For the purposes of a federally funded grant entitled, Massachusetts Micro-Hydro Analysis Project . . . . .	\$5,000
7006-9223	For the purposes of a federally funded grant entitled, Leveraging	

Manufacturing Productivity and Energy Efficiency Resources .....	\$6,750
7006-9224 For the purposes of a federally funded grant entitled, Clean Cities Coalition Support .....	\$25,000
7006-9225 For the purposes of a federally funded grant entitled, Industries of the Future Program .....	\$50,375
7006-9226 BIOMASS - Incentive Programs for Biobased Products and Fuels ..	\$75,000
7006-9227 Public Housing Efficiency Project .....	\$97,700
7006-9720 For the purposes of a federally funded grant entitled, State Heating Oil and Propane Program .....	\$22,820
7006-9743 For the purposes of a federally funded grant entitled, State Energy Plan .....	\$974,000

*Department of Economic Development.*

7007-9007 For the purposes of a federally funded grant entitled, Urban Enterprise Program .....	\$200,000
-------------------------------------------------------------------------------------------------	-----------

*Department of Education.*

7010-8888 For the purposes of a federally funded grant entitled, School Renovations Ideas and Technology - Distribution .....	\$19,400,000
7010-9706 For the purposes of a federally funded grant entitled, Common Core Data Project .....	\$95,003
7027-0210 For the purposes of a federally funded grant entitled, Partnerships in Character Education .....	\$286,216
7027-4444 For the purposes of a federally funded grant entitled, High School Reform SG - Distribution .....	\$724,062
7032-0217 For the purposes of a federally funded grant entitled, Robert C Byrd Honors Scholarship Program - Distribution .....	\$929,435
7032-0228 For the purposes of a federally funded grant entitled, Massachusetts AIDS Education Program .....	\$1,216,398
7033-9401 For the purposes of a federally funded grant entitled, Christa McAuliffe Fellowship Program - Administration .....	\$8,500
7035-0020 For the purposes of a federally funded grant entitled, Massachusetts State Improvement Grant Project Focus .....	\$2,752,287
7035-0166 For the purposes of a federally funded grant entitled, Even Start Family Literacy - Distribution .....	\$4,754,428
7035-0176 For the purposes of a federally funded grant entitled, Comprehensive School Demonstration - Distribution .....	\$6,590,588
7035-0210 For the purposes of a federally funded grant entitled, Advanced Placement Fee Payment Program .....	\$336,646

---

**Chap. 149**

7038-0107	For the purposes of a federally funded grant entitled, Adult Basic Education - Distribution .....	\$11,293,529
7038-0188	For the purposes of a federally funded grant entitled, Family Literacy Administration Phase II .....	\$167,664
7038-9004	For the purposes of a federally funded grant entitled, School Based Programs .....	\$509,688
7038-9008	For the purposes of a federally funded grant entitled, Learn and Serve America, Higher Ed and Schools Partnership .....	\$235,600
7038-9748	For the purposes of a federally funded grant entitled, Refugee Children School Impact Grant Program .....	\$537,500
7043-1001	For the purposes of a federally funded grant entitled, Title I Basic Program .....	\$230,510,606
7043-1002	For the purposes of a federally funded grant entitled, Title I Reading First State Grants .....	\$18,542,055
7043-1004	For the purposes of a federally funded grant entitled, Title I Migratory Children .....	\$1,818,902
7043-1005	For the purposes of a federally funded grant entitled, Title I Neglected and Delinquent Children .....	\$1,950,000
7043-2001	For the purposes of a federally funded grant entitled, Title II Teacher Quality State Grants .....	\$52,717,550
7043-2002	For the purposes of a federally funded grant entitled, Title II State and Local Technology Grants .....	\$14,155,554
7043-2003	For the purposes of a federally funded grant entitled, Title IIB Math and Science Partnerships .....	\$1,731,107
7043-3001	For the purposes of a federally funded grant entitled, Title III Language Instruction/LEP Immigrants .....	\$7,173,119
7043-4001	For the purposes of a federally funded grant entitled, Title IV Safe and Drug Free Schools .....	\$7,143,515
7043-4002	For the purposes of a federally funded grant entitled, Title IV 21st Century Community Learning Centers .....	\$11,525,000
7043-4003	For the purposes of a federally funded grant entitled, Community Service Expelled/Suspended .....	\$975,394
7043-5001	For the purposes of a federally funded grant entitled, Title V Innovative Programs State Grants .....	\$7,617,530
7043-6001	For the purposes of a federally funded grant entitled, Title VI State Assessment Grants .....	\$7,345,671
7043-6002	For the purposes of a federally funded grant entitled, Rural And Low-Income Schools .....	\$193,929
7043-6501	For the purposes of a federally funded grant entitled, Title X Homeless Children/Youth .....	\$1,055,917

---

**Chap. 149**

7043-7001	For the purposes of a federally funded grant entitled, Special Education Grants .....	\$250,351,438
7043-7002	For the purposes of a federally funded grant entitled, Preschool Grants .....	\$10,103,890
7043-8001	For the purposes of a federally funded grant entitled, Vocational Education Grants .....	\$18,101,085
7043-8002	For the purposes of a federally funded grant entitled, Tech-Prep. Education .....	\$1,697,959
7043-9001	For the purposes of a federally funded grant entitled, Teacher Quality Enhancement/Partnerships .....	\$312,828
7043-9002	For the purposes of a federally funded grant entitled, Transition to Teaching .....	\$586,160
7053-2112	For the purposes of a federally funded grant entitled, Special Assistance Funds .....	\$133,180,125
7053-2117	For the purposes of a federally funded grant entitled, Child Care Program .....	\$55,040,252
7053-2126	For the purposes of a federally funded grant entitled, Temporary Emergency Food Assistance .....	\$920,000
7053-2202	For the purposes of a federally funded grant entitled, Special Summer Food Service Program for Children .....	\$6,125,000
7062-0008	For the purposes of a federally funded grant entitled, Office of School Lunch Programs - Child Care Program Administration .....	\$2,850,000
7062-0017	For the purposes of a federally funded grant entitled, Charter Schools Assistance .....	\$4,751,065
7062-0019	For the purposes of a federally funded grant entitled, Career Resource Network State Grant .....	\$230,000

*Board of Higher Education.*

7066-1574	For the purposes of a federally funded grant entitled, Improving Teacher Quality Grants - SAHES .....	\$1,405,000
7066-6022	For the purposes of a federally funded grant entitled, Gear Up - Board of Higher Education .....	\$405,314
7070-0017	For the purposes of a federally funded grant entitled, State Student Incentive Grant Program - Board of Higher Education ....	\$946,011
7110-6019	For the purposes of a federally funded grant entitled, Upward Bound Payroll and Benefits - Fitchburg State College .....	\$150,182
7110-6030	For the purposes of a federally funded grant entitled, Expanding Horizons Student Support Services - Fitchburg State College .....	\$161,177

---

**Chap. 149**

7110-6046	For the purposes of a federally funded grant entitled, Co-Step Special Education Payroll and Benefits- Fitchburg State College .....	\$48,917
7110-6064	For the purposes of a federally funded grant entitled, USIA Community Connections Payroll- Fitchburg State College .....	\$32,854
7410-3093	For the purposes of a federally funded grant entitled, Polymer Building Construction - University of Massachusetts Amherst .....	\$832,264
7503-6555	For the purposes of a federally funded grant entitled, Title III Strengthening Institutions Program - Bristol Community College .....	\$159,829
7503-9711	For the purposes of a federally funded grant entitled, Special Services for Disadvantaged Students - Bristol Community College .....	\$297,973
7503-9714	For the purposes of a federally funded grant entitled, Upward Bound Program - Bristol Community College .....	\$111,000
7509-1490	For the purposes of a federally funded grant entitled, Educational Opportunities Centers Payroll - Mount Wachusett Community College .....	\$130,119
7509-9714	For the purposes of a federally funded grant entitled, Special Services for Disadvantaged Students - Mount Wachusett Community College .....	\$214,243
7509-9718	For the purposes of a federally funded grant entitled, Talent Search - Mount Wachusett Community College .....	\$241,850
7511-9711	For the purposes of a federally funded grant entitled, Special Services for Disadvantaged Students - North Shore Community College .....	\$434,823
7511-9713	For the purposes of a federally funded grant entitled, IAP - Strengthening Institutions Program .....	\$362,534
7511-9740	For the purposes of a federally funded grant entitled, Upward Bound - North Shore Community College .....	\$144,388
7511-9750	For the purposes of a federally funded grant entitled, Talent Search .....	\$192,005

**EXECUTIVE OFFICE OF PUBLIC SAFETY AND HOMELAND SECURITY.***Office of the Secretary*

8000-4602	For the purposes of a federally funded grant entitled, Juvenile Justice Delinquency and Prevention Act - Planning .....	\$128,700
8000-4603	For the purposes of a federally funded grant entitled, Juvenile Justice Delinquency and Prevention Act .....	\$1,158,300

---

**Chap. 149**

8000-4608	For the purposes of a federally funded grant entitled, Drug-Free Schools and Communities Act of 1986 .....	\$1,787,879
8000-4609	For the purposes of a federally funded grant entitled, Narcotics Control Assistance .....	\$10,163,694
8000-4610	For the purposes of a federally funded grant entitled, Statistical Analysis Center .....	\$51,377
8000-4619	For the purposes of a federally funded grant entitled, Title V .....	\$272,000
8000-4620	For the purposes of a federally funded grant entitled, Stop Violence Against Women Formula Grants Program .....	\$2,492,000
8000-4623	For the purposes of a federally funded grant entitled, Criminal History Improvement .....	\$812,313
8000-4625	For the purposes of a federally funded grant entitled, Local Law Enforcement Block Grants .....	\$735,685
8000-4634	For the purposes of a federally funded grant entitled, Juvenile Accountability Incentive Block Grant .....	\$978,100
8000-4642	For the purposes of a federally funded grant entitled, Bullet-proof Vest Partnership Program .....	\$100,000
8000-4692	For the purposes of a federally funded grant entitled, State Homeland Security Program .....	\$45,638,500
8000-4693	For the purposes of a federally funded grant entitled, Project Safe Neighborhood .....	\$1,200,000
8000-4694	For the purposes of a federally funded grant entitled, Urban Area Security Initiative .....	\$19,018,846
8000-4804	For the purposes of a federally funded grant entitled, State Agency Programs .....	\$18,619,013
8000-4829	For the purposes of a federally funded grant entitled, Demonstration /Evaluation of Rational Speed Limits .....	\$80,000
8000-4830	For the purposes of a federally funded grant entitled, Crash Outcome Data Evaluation System .....	\$65,717
8000-4831	For the purposes of a federally funded grant entitled, FY02 Enforcing the Underage Drinking Law .....	\$100,000
8000-4834	For the purposes of a federally funded grant entitled, Older Road User Highway Improvements .....	\$135,000
8000-4835	For the purposes of a federally funded grant entitled, FY2003 Enforcing the Underage Drinking Laws .....	\$357,600
8000-4836	For the purposes of a federally funded grant entitled, Commercial Motor Vehicle Data Quality Control and Analysis .....	\$200,000
8000-4837	For the purposes of a federally funded grant entitled, FY 2004 Enforcing the Underage Drinking Laws .....	\$200,000

---

**Chap. 149**

*Department of State Police.*

8100-0208	For the purposes of a federally funded grant entitled, MCSAP Wireless Communications Program .....	\$160,111
8100-0209	For the purposes of a federally funded grant entitled, Region 1 Training Academy Motor Carrier Safety Assistance .....	\$145,000
8100-0210	For the purposes of a federally funded grant entitled, MCSAP- CVE New Entrant Audit .....	\$61,644
8100-0213	For the purposes of a federally funded grant entitled, MCSAP Main Grant FY03 .....	\$2,327,650
8100-0214	For the purposes of a federally funded grant entitled, MCSAP FY04 .....	\$2,350,000
8100-2058	For the purposes of a federally funded grant entitled, New England State Police Administrator's Conference - Regional Investigation .....	\$3,000,000
8100-9705	For the purposes of a federally funded grant entitled, Port Security .....	\$1,200,000
8100-9706	For the purposes of a federally funded grant entitled, Cannabis Eradication Controlled Substance Prosecution ·DEA Cooperative Agreement .....	\$80,000
8100-9719	For the purposes of a federally funded grant entitled, FY01 DNA No Suspect Backlog Reduction .....	\$917,030
8100-9720	For the purposes of a federally funded grant entitled, FY03 DNA No Suspect Backlog Reduction .....	\$1,789,772
8100-9721	For the purposes of a federally funded grant entitled, Paul Coverdell National Forensic Science .....	\$78,000

*Criminal Justice Training Council.*

8200-0010	For the purposes of a federally funded grant entitled, Massachusetts Police Corps .....	\$15,000
-----------	--------------------------------------------------------------------------------------------	----------

*Department of Fire Services.*

8324-1503	For the purposes of a federally funded grant entitled, Terrorism Preparedness Training .....	\$80,000
8324-1505	For the purposes of a federally funded grant entitled, USFA/NFA State Fire Training Program .....	\$25,000
8324-9707	For the purposes of a federally funded grant entitled, Underground Storage Tank Registry Program .....	\$200,000

*Registry of Motor Vehicles.*

8400-0090 For the purposes of a federally funded grant entitled, Enhance CDL Licensing .....	\$240,000
8400-0092 For the purposes of a federally funded grant entitled, Enhancing Social Security Verification .....	\$221,000

*Military Division.*

8700-1000 For the purposes of a federally funded cooperative agreement entitled, Military Construction Costs .....	\$8,730,000
8700-2000 For the purposes of a federally funded cooperative agreement entitled, National Guard Military Operations and Maintenance Projects .....	\$319,000

*Massachusetts Emergency Management Agency.*

8800-0002 For the purposes of a federally funded grant entitled, Community Emergency Response Team Train the Trainer .....	\$50,000
8800-0003 For the purposes of a federally funded grant entitled, Emergency Management Assistance - Performance Grant .....	\$3,407,781
8800-0037 For the purposes of a federally funded grant entitled, Hazard Mitigation 1224/1142 .....	\$3,764,513
8800-0042 For the purposes of a federally funded grant entitled, Hazardous Materials Transportation Act .....	\$214,283
8800-0048 For the purposes of a federally funded grant entitled, Flood Mitigation Assistance Program .....	\$829,840
8800-0054 For the purposes of a federally funded grant entitled, Flood 10/20/06 .....	\$2,333,770
8800-0063 For the purposes of a federally funded grant entitled, Emergency Operations Center Grant .....	\$98,322
8800-0064 For the purposes of a federally funded grant entitled, Hazard Mitigation 1364 .....	\$1,520,166
8800-0066 For the purposes of a federally funded grant entitled, All Hazardous Emergency Operations Planning Grant .....	\$2,144,079
8800-0067 For the purposes of a federally funded grant entitled, Citizen Corporation/CERT Programs .....	\$435,603
8800-0068 For the purposes of a federally funded grant entitled, Preparedness Equipment - State and Local .....	\$50,220
8800-0069 For the purposes of a federally funded grant entitled, Comprehen- sive Environmental Response, Compensation, and Liability Act Grant .....	\$5,000

---

**Chap. 149**

8800-0078	For the purposes of a federally funded grant entitled, Pre-Disaster Mitigation Program .....	\$648,570
8800-0079	For the purposes of a federally funded grant entitled, State Domestic Preparedness Program .....	\$949,621
8800-0080	For the purposes of a federally funded grant entitled, Local Emergency Planning Committees Planning and Conference .....	\$30,500
8800-0081	For the purposes of a federally funded grant entitled, Community Emergency Response Team (CERT) Programs .....	\$388,783
8800-0082	For the purposes of a federally funded grant entitled, Snow Removal Declaration 3175 .....	\$10,000,000
8800-0083	For the purposes of a federally funded grant entitled, Snow Removal Declaration 3194 .....	\$40,000,000

*Department of Correction.*

8900-0027	For the purposes of a federally funded grant entitled, Residential Substance Abuse Treatment .....	\$485,000
8900-0029	For the purposes of a federally funded grant entitled, Violent Offender Incarceration/Truth in Sentencing .....	\$1,000,000
8903-0019	For the purposes of a federally funded grant entitled, Life Skills for State and Local Prisoners .....	\$185,000

*Sheriffs.*

8910-0118	For the purposes of a federally funded grant entitled, Life Skills for Offenders .....	\$102,369
8910-0120	For the purposes of a federally funded grant entitled, Substance Abuse .....	\$69,930
8910-0121	For the purposes of a federally funded grant entitled, Project TACT .....	\$51,300
8910-0123	For the purposes of a federally funded grant entitled, Inmate Litter Program .....	\$32,089
8910-0133	For the purposes of a federally funded grant entitled, Residential Substance Abuse .....	\$75,899
8910-0169	For the purposes of a federally funded grant entitled, Adult Basic Supervision .....	\$157,248
8910-0170	For the purposes of a federally funded grant entitled, Project Expand .....	\$62,358
8910-0202	For the purposes of a federally funded grant entitled, STD/Tuberculosis .....	\$38,185
8910-0305	For the purposes of a federally funded grant entitled, Title 1 .....	\$249,875

---

**Chap. 149**

8910-0320	For the purposes of a federally funded grant entitled, Violence Against Women .....	\$10,760
8910-0369	For the purposes of a federally funded grant entitled, HIV Intervention .....	\$39,550
8910-0370	For the purposes of a federally funded grant entitled, HIV/STD/Tuberculosis .....	\$44,503
8910-0503	For the purposes of a federally funded grant entitled, Title 1 .....	\$76,069
8910-0504	For the purposes of a federally funded grant entitled, Community Corrections Centers .....	\$1,718,915
8910-0533	For the purposes of a federally funded grant entitled, Integrity Training .....	\$75,000
8910-0607	For the purposes of a federally funded grant, entitled, Substance Abuse Continuum of Care .....	\$249,548
8910-8001	For the purposes of a federally funded grant entitled, Vocational Education .....	\$11,377
8910-8011	For the purposes of a federally funded grant entitled, Project TOP .....	\$11,000

**EXECUTIVE OFFICE OF ELDER AFFAIRS.***Office of the Secretary.*

9110-1074	For the purposes of a federally funded grant entitled, Older Americans Assistance, Title III and Title VII; provided, that the executive office of elder affairs may provide periodic payments in advance to participating agencies .....	\$10,480,605
9110-1077	For the purposes of a federally funded grant entitled, Older Americans Act, Title III-E, National Family Caregiver Support Program; provided, that the executive office of elder affairs may provide periodic payments in advance to participating agencies .....	\$4,952,082
9110-1095	For the purposes of a federally funded grant entitled, Health Information Counseling and Assistance; provided that the executive office of elder affairs may provide periodic payments in advance to participating agencies .....	\$316,519
9110-1173	For the purposes of a federally funded grant entitled, Older Americans Act - Title III Nutrition Program; provided, that the executive office of elder affairs may provide periodic payments in advance to participating agencies .....	\$13,420,000
9110-1174	For the purposes of a federally funded grant entitled, Nutrition Services Incentive Program; provided, that the executive of-	

	office of elder affairs may provide periodic payments in advance to participating agencies . . . . .	\$3,976,430
9110-1178	For the purposes of a federally funded grant entitled, Community Service Employment Program; provided, that the executive office of elder affairs may provide periodic payments in advance to participating agencies . . . . .	\$1,930,927
9110-2457	For the purposes of a federally funded grant entitled, Springfield Multicultural Alzheimer's Services Project; provided, that the executive office of elder affairs may provide periodic payments in advance to participating agencies . . . . .	\$333,414
9110-2531	For the purposes of a federally funded grant entitled, Caregiver Resource Center for Deaf and Late Deafened Elders; provided, that the executive office of elder affairs may provide periodic payments in advance to participating agencies . . . . .	\$40,000
9110-2760	For the purposes of a federally funded grant entitled, New England Massachusetts Aging and Disability Resource Center; provided, that the executive office of elder affairs may provide periodic payments in advance to participating agencies . . . . .	\$139,375
9110-2761	For the purposes of a federally funded grant entitled, Aging and Disability Resource Center- Center for Medicaid and Medicare Services; provided, that the executive office of elder affairs may provide periodic payments in advance to participating agencies . . . . .	\$110,625

**SECTION 3.** Notwithstanding any general or special law to the contrary, for the fiscal year ending June 30, 2005 the distribution to cities and towns of the balance of the State Lottery Fund, as paid by the treasurer from the General Fund in accordance with the provisions of clause (c) of the second paragraph of section 35 of chapter 10 of the General Laws, shall be \$661,378,162 and shall be apportioned to the cities and towns in accordance with this section; provided, that the amount of any balance in the State Lottery Fund at the end of the fiscal year shall be transferred to the General Fund.

Notwithstanding any general or special law to the contrary, the total amounts to be distributed and paid to each city and town from item 0611-5500 of section 2 shall be as set forth in the following lists; provided further, that the amounts to be distributed from item 0611-5500 of said section 2 are hereby deemed to be in full satisfaction of the amounts due under section 37 of chapter 21 of the General Laws.

Notwithstanding section 2 of chapter 70 of the General Laws or any other general or special law to the contrary, except for section 12B of chapter 76 and section 89 of chapter 71 of the General Laws, for fiscal year 2005 the total amounts to be distributed and paid to each city and town from item 7061-0008 of section 2 shall be as set forth in the following lists; provided, that the specified amounts to be distributed from item 7061-0008 of said section 2

**Chap. 149**

are hereby deemed to be in full satisfaction of the amounts due under the provisions of sections 3, 6 and 7 of chapter 70 of the General Laws. For fiscal year 2005, in the calculation of the foundation budget for each district, no school district shall have a wage adjustment factor less than one. Minimum required local contributions for fiscal year 2005 shall be calculated as for house bill 1A, as submitted by the governor in January of 2004, and shall equal preliminary local contribution in fiscal year 2004 increased or decreased by the municipal revenue growth factor. For the purposes of calculating municipal revenue growth factors, general revenue sharing aid for every city and town shall be calculated based on the amount of assistance from the Commonwealth budgeted in house bill 1A, as submitted by the governor in January of 2004. For fiscal year 2005, Chapter 70 aid shall be the difference between a district's foundation budget and the sum of that district's share of preliminary local contributions of member communities as determined by the department of education. Each operating district shall receive at least as much aid as the district received in chapter 70 aid in fiscal year 2004. No district shall receive chapter 70 aid in an amount greater than the district's foundation budget. If there is a conflict between the provisions of this section and the distribution listed below, the distribution below shall control.

The department shall not consider health care costs for retired teachers to be part of net school spending for any district in which such costs were not considered part of net school spending in fiscal year 1994.

No payments to cities, towns, or counties maintaining an agricultural school pursuant to this section shall be made after November 30 of the fiscal year by the state treasurer until he receives certification from the commissioner of revenue of said commissioner's acceptance of the prior fiscal year's annual financial reports submitted pursuant to section 43 of chapter 44 of the General Laws. The state treasurer shall make advance payments for some or all of periodic local reimbursement or assistance programs to any city, town, regional school district, or independent agricultural and technical school that demonstrates an emergency cash shortfall, as certified by the commissioner of revenue and approved by the secretary of administration and finance, pursuant to guidelines established by said secretary.

Municipality	7061-0008	0611-5500	Lottery Distribution
	Chapter 70	Additional Assistance	
ABINGTON	6,752,853	-	1,758,051
ACTON	2,603,014	29,696	1,195,284
ACUSHNET	5,859,834	23,875	1,349,775
ADAMS	-	35,042	1,720,579
AGAWAM	9,966,288	-	3,138,137
ALFORD	-	-	12,923
AMESBURY	8,322,927	-	1,763,634
AMHERST	4,931,612	222,910	6,883,094

# Chap. 149

		0611-5500	
Municipality	7061-0008 Chapter 70	Additional Assistance	Lottery Distribution
ANDOVER	4,945,356	-	1,576,354
AQUINNAH	-	-	1,887
ARLINGTON	4,802,777	4,491,775	3,833,185
ASHBURNHAM	-	-	595,717
ASHBY	-	-	349,366
ASHFIELD	66,103	-	143,485
ASHLAND	2,588,396	291,598	909,060
ATHOL	-	4,377	1,924,937
ATTLEBORO	26,567,844	-	4,874,098
AUBURN	3,735,310	-	1,465,175
AVON	570,215	400,636	347,387
AYER	3,588,964	44,218	653,637
BARNSTABLE	6,105,388	-	1,799,394
BARRE	14,943	-	677,399
BECKET	66,103	8,580	65,888
BEDFORD	1,935,588	484,271	699,674
BELCHERTOWN	9,230,976	-	1,316,398
BELLINGHAM	7,540,956	-	1,618,431
BELMONT	2,824,519	827,483	1,520,795
BERKLEY	4,865,981	-	478,440
BERLIN	494,057	-	190,373
BERNARDSTON	-	-	223,551
BEVERLY	6,107,219	2,452,442	3,485,521
BILLERICA	12,688,538	2,349,321	3,617,520
BLACKSTONE	38,454	-	1,130,441
BLANDFORD	34,629	-	101,161
BOLTON	-	-	158,122
BOSTON	200,498,366	164,211,152	53,968,473
BOURNE	4,398,105	352,555	1,037,581
BOXBOROUGH	1,290,263	-	206,884
BOXFORD	1,446,557	36,411	400,102
BOYLSTON	381,691	-	302,601
BRAINTREE	4,655,171	3,378,041	2,790,848
BREWSTER	820,927	-	337,981
BRIDGEWATER	112,410	-	2,792,709
BRIMFIELD	878,098	-	310,111
BROCKTON	106,909,135	4,310,392	15,637,164

Chap. 149

		0611-5500	
Municipality	7061-0008 Chapter 70	Additional Assistance	Lottery Distribution
BROOKFIELD	1,308,158	-	420,657
BROOKLINE	4,922,047	3,497,741	3,380,871
BUCKLAND	-	-	232,150
BURLINGTON	3,547,194	1,386,400	1,360,578
CAMBRIDGE	6,791,105	17,956,060	6,820,267
CANTON	2,512,730	878,002	1,260,474
CARLISLE	586,786	14,729	187,183
CARVER	9,165,331	-	1,255,697
CHARLEMONT	66,103	-	134,534
CHARLTON	-	-	1,090,377
CHATHAM	448,125	-	147,795
CHELMSFORD	6,593,456	2,535,342	2,759,926
CHELSEA	41,728,552	3,396,864	4,747,616
CHESHIRE	235,214	-	457,909
CHESTER	46,836	-	140,028
CHESTERFIELD	84,990	-	105,694
CHICOPEE	36,376,295	1,195,616	8,535,325
CHILMARK	-	-	3,358
CLARKSBURG	1,464,518	13,114	305,399
CLINTON	8,794,604	175,517	1,915,036
COHASSET	1,147,273	166,099	365,106
COLRAIN	-	-	196,429
CONCORD	1,542,930	383,959	817,244
CONWAY	556,983	-	140,227
CUMMINGTON	32,478	-	61,610
DALTON	141,724	-	848,429
DANVERS	3,570,012	1,118,972	1,722,964
DARTMOUTH	7,857,177	-	2,217,842
DEDHAM	3,053,874	1,550,298	1,898,464
DEERFIELD	625,742	-	421,939
DENNIS	-	-	471,165
DEVENS	328,000	-	-
DIGHTON	-	-	601,950
DOUGLAS	6,146,736	-	589,300
DOVER	331,900	-	179,149
DRACUT	14,033,837	-	3,086,109

# Chap. 149

Municipality	7061-0008 Chapter 70	0611-5500	
		Additional Assistance	Lottery Distribution
DUDLEY	-	-	1,306,181
DUNSTABLE	-	30,076	166,548
DUXBURY	2,655,314	-	823,068
EAST BRIDGEWATER	9,132,173	-	1,291,216
EAST BROOKFIELD	21,904	-	239,424
EAST LONGMEADOW	3,278,506	-	1,163,174
EASTHAM	242,054	-	128,941
EASTHAMPTON	6,967,964	108,874	2,305,254
EASTON	7,481,507	-	1,883,909
EDGARTOWN	323,078	28,507	40,872
EGREMONT	-	-	55,927
ERVING	245,334	13,150	54,375
ESSEX	-	33,828	203,853
EVERETT	19,175,244	4,084,357	3,050,157
FAIRHAVEN	6,793,464	391,434	1,756,757
FALL RIVER	85,738,829	2,290,951	19,402,249
FALMOUTH	4,231,106	-	1,216,594
FITCHBURG	35,787,060	214,811	7,230,474
FLORIDA	415,390	-	44,427
FOXBOROUGH	5,687,603	-	1,360,167
FRAMINGHAM	8,131,670	4,697,500	5,530,116
FRANKLIN	22,117,905	-	2,141,760
FREETOWN	892,240	-	845,301
GARDNER	17,867,842	120,747	3,490,701
GEORGETOWN	3,271,897	52,998	596,482
GILL	-	-	185,131
GLOUCESTER	5,243,302	1,923,054	2,264,906
GOSHEN	71,297	-	59,634
GOSNOLD	8,046	1,962	468
GRAFTON	5,691,718	-	1,363,188
GRANBY	3,428,752	-	724,012
GRANVILLE	1,179,511	-	120,132
GREAT BARRINGTON	-	-	681,422
GREENFIELD	8,625,218	-	2,656,246
GROTON	-	-	633,120
GROVELAND	-	-	572,919

		0611-5500	
Municipality	7061-0008	Additional	Lottery
	Chapter 70	Assistance	Distribution
HADLEY	593,711	138,341	280,365
HALIFAX	2,132,751	-	799,621
HAMILTON	-	42,887	533,202
HAMPDEN	-	-	514,302
HANCOCK	133,439	17,638	32,868
HANOVER	4,228,938	1,326,394	938,920
HANSON	28,330	-	1,096,347
HARDWICK	-	3,228	336,620
HARVARD	1,145,540	55,090	1,648,035
HARWICH	1,363,502	-	376,383
HATFIELD	537,782	-	268,720
HAVERHILL	31,598,621	2,503,145	6,827,711
HAWLEY	24,187	12,924	24,447
HEATH	-	-	54,725
HINGHAM	3,162,330	334,151	1,214,451
HINSDALE	75,547	-	179,555
HOLBROOK	4,123,504	4,757	1,370,152
HOLDEN	-	-	1,454,110
HOLLAND	654,814	-	153,540
HOLLISTON	5,801,129	412,300	1,088,152
HOLYOKE	60,124,455	606,646	8,164,179
HOPEDALE	5,004,900	-	567,333
HOPKINTON	4,441,378	120,287	558,625
HUBBARDSTON	-	-	293,378
HUDSON	5,242,895	-	1,824,009
HULL	3,613,343	1,388,549	966,033
HUNTINGTON	89,327	-	266,546
IPSWICH	1,968,840	775,432	894,957
KINGSTON	3,233,959	-	807,788
LAKEVILLE	2,110,914	-	669,072
LANCASTER	-	-	773,606
LANESBOROUGH	498,078	-	311,424
LAWRENCE	114,596,043	190,699	16,928,453
LEE	1,482,316	-	575,965
LEICESTER	8,490,089	-	1,515,032
LENOX	1,073,673	72,146	476,164
LEOMINSTER	31,337,869	11,693	4,779,809

# Chap. 149

	7061-0008	0611-5500	
Municipality	Chapter 70	Additional Assistance	Lottery Distribution
LEVERETT	217,431	-	153,710
LEXINGTON	4,895,754	-	1,392,955
LEYDEN	-	-	61,869
LINCOLN	458,937	292,012	415,099
LITTLETON	1,387,507	164,924	500,608
LONGMEADOW	3,385,200	-	1,182,253
LOWELL	107,640,518	6,340,746	17,476,479
LUDLOW	9,260,484	-	2,401,815
LUNENBURG	3,625,757	-	941,409
LYNN	97,648,202	9,477,523	12,851,766
LYNNFIELD	1,659,938	362,288	674,713
MALDEN	29,763,735	5,586,730	7,454,621
MANCHESTER	-	-	214,734
MANSFIELD	10,555,161	725,040	1,292,920
MARBLEHEAD	2,436,791	39,403	1,026,392
MARION	317,718	-	198,208
MARLBOROUGH	5,916,088	2,728,327	2,786,797
MARSHFIELD	11,635,063	202,756	1,832,675
MASHPEE	3,939,254	-	236,666
MATTAPOISETT	449,798	-	371,347
MAYNARD	2,145,808	586,886	1,004,037
MEDFIELD	4,034,179	744,614	760,033
MEDFORD	9,996,450	6,432,448	6,402,709
MEDWAY	6,153,863	187,002	897,832
MELROSE	5,012,390	2,704,187	2,786,945
MENDON	19,043	-	333,019
MERRIMAC	-	-	652,335
METHUEN	28,932,255	163,026	4,603,440
MIDDLEBOROUGH	14,891,489	-	2,152,990
MIDDLEFIELD	4,947	-	36,878
MIDDLETON	854,271	126,570	306,150
MILFORD	9,314,774	-	2,740,501
MILLBURY	5,790,014	-	1,550,680
MILLIS	1,821,686	320,940	708,699
MILLVILLE	18,901	-	299,243
MILTON	3,219,806	1,245,145	2,082,868
MONROE	82,880	13,927	6,377

# Chap. 149

Municipality	7061-0008 Chapter 70	0611-5500	
		Additional Assistance	Lottery Distribution
MONSON	6,249,677	-	1,078,262
MONTAGUE	1,037	-	1,050,583
MONTEREY	-	12,538	31,187
MONTGOMERY	14,841	-	71,839
MOUNT WASHINGTON	19,108	33,286	2,817
NAHANT	364,640	125,393	265,399
NANTUCKET	775,218	-	66,534
NATICK	3,945,346	1,942,474	2,069,792
NEEDHAM	3,603,998	205,993	1,418,675
NEW ASHFORD	108,336	7,313	8,028
NEW BEDFORD	102,416,889	716,255	20,272,783
NEW BRAINTREE	-	-	96,712
NEW MARLBOROUGH	-	-	48,224
NEW SALEM	-	-	79,036
NEWBURY	-	-	397,117
NEWBURYPORT	2,793,820	1,380,057	1,360,628
NEWTON	9,115,550	1,377,012	4,428,398
NORFOLK	3,236,571	-	842,604
NORTH ADAMS	13,731,726	185,853	3,781,341
NORTH ANDOVER	3,911,440	120,549	1,635,892
NORTH ATTLEBOROUGH	17,552,541	-	2,538,546
NORTH BROOKFIELD	4,329,232	-	707,851
NORTH READING	3,256,641	945,499	921,054
NORTHAMPTON	6,425,910	577,922	3,460,946
NORTHBOROUGH	2,491,114	61,111	918,552
NORTHBRIDGE	12,150,287	3,071	1,985,075
NORTHFIELD	-	-	259,157
NORTON	11,306,913	-	1,794,549
NORWELL	1,815,262	541,079	584,616
NORWOOD	3,359,544	2,665,880	2,280,261
OAK BLUFFS	507,397	-	62,930
OAKHAM	56,660	-	146,533
ORANGE	4,875,842	2,115	1,393,773
ORLEANS	214,362	-	159,824
OTIS	-	-	25,525
OXFORD	8,129,458	-	1,848,802

# Chap. 149

Municipality	7061-0008 Chapter 70	0611-5500	
		Additional Assistance	Lottery Distribution
PALMER	10,069,381	-	1,607,734
PAXTON	80,630	-	397,604
PEABODY	16,453,772	3,140,276	4,273,806
PELHAM	112,953	-	129,327
PEMBROKE	7,800,475	-	1,463,767
PEPPERELL	-	-	1,104,533
PERU	34,314	-	89,232
PETERSHAM	297,366	-	94,046
PHILLIPSTON	-	4,386	137,975
PITTSFIELD	27,293,742	880,284	6,708,257
PLAINFIELD	18,887	-	37,273
PLAINVILLE	2,334,300	-	655,201
PLYMOUTH	16,321,643	-	3,279,583
PLYMPTON	478,208	-	208,033
PRINCETON	-	-	259,175
PROVINCETOWN	247,301	22,181	124,552
QUINCY	12,132,223	11,567,002	9,033,749
RANDOLPH	10,240,371	1,825,854	3,311,003
RAYNHAM	-	-	964,956
READING	6,082,107	1,534,901	1,841,015
REHOBOTH	-	-	796,592
REVERE	23,784,526	5,334,444	5,316,611
RICHMOND	308,895	-	99,313
ROCHESTER	1,299,420	-	359,839
ROCKLAND	8,823,145	394,336	2,104,059
ROCKPORT	1,142,321	-	394,035
ROWE	42,445	-	3,692
ROWLEY	-	114,232	391,966
ROYALSTON	-	-	124,147
RUSSELL	97,558	-	192,357
RUTLAND	8,895	-	660,841
SALEM	10,290,730	3,298,731	3,582,967
SALISBURY	-	-	537,269
SANDISFIELD	-	-	25,694
SANDWICH	5,453,106	88,406	813,793
SAUGUS	3,382,514	1,784,087	1,999,340
SAVOY	455,587	13,801	85,489

# Chap. 149

Municipality	7061-0008 Chapter 70	0611-5500 Additional	Lottery
		Assistance	Distribution
SCITUATE	3,051,265	875,037	1,231,872
SEEKONK	2,931,775	-	1,057,967
SHARON	6,096,030	62,495	1,196,755
SHEFFIELD	7,405	11,938	190,069
SHELBURNE	-	-	224,115
SHERBORN	316,331	20,951	179,491
SHIRLEY	3,950,169	185,558	993,217
SHREWSBURY	11,948,701	298,861	2,110,492
SHUTESBURY	458,403	-	127,296
SOMERSET	2,553,323	-	1,240,942
SOMERVILLE	19,441,989	16,219,924	10,692,616
SOUTH HADLEY	5,178,059	20,214	2,189,688
SOUTHAMPTON	2,267,762	-	492,324
SOUTHBOROUGH	2,505,027	-	367,543
SOUTHBRIDGE	14,526,889	-	3,019,639
SOUTHWICK	-	-	937,706
SPENCER	209,021	-	1,789,359
SPRINGFIELD	215,632,819	1,829,496	28,974,118
STERLING	-	-	595,435
STOCKBRIDGE	-	-	93,460
STONEHAM	2,627,863	2,028,958	1,915,613
STOUGHTON	8,578,007	103,134	2,898,763
STOW	-	6,974	367,900
STURBRIDGE	1,039,058	-	650,667
SUDBURY	3,351,225	641,561	778,236
SUNDERLAND	833,349	-	402,993
SUTTON	4,670,098	-	661,909
SWAMPSCOTT	1,944,830	352,328	892,119
SWANSEA	3,973,381	-	1,650,958
TAUNTON	38,760,434	-	7,597,724
TEMPLETON	-	-	1,052,152
TEWKSBURY	11,697,060	-	2,540,701
TISBURY	284,186	-	91,244
TOLLAND	-	9,864	4,971
TOPSFIELD	583,120	253,284	369,587
TOWNSEND	-	-	1,007,487

# Chap. 149

Municipality	7061-0008 Chapter 70	0611-5500	
		Additional Assistance	Lottery Distribution
TRURO	209,577	-	26,236
TYNGSBOROUGH	6,129,435	-	793,386
TYRINGHAM	29,274	-	11,431
UPTON	6,830	-	429,828
UXBRIDGE	8,869,122	-	1,239,204
WAKEFIELD	3,895,320	1,438,080	2,070,499
WALES	592,846	-	192,249
WALPOLE	4,314,774	883,775	1,661,399
WALTHAM	5,727,143	5,458,868	4,764,032
WARE	7,030,768	15,257	1,433,470
WAREHAM	11,059,830	-	1,824,735
WARREN	236,226	-	613,802
WARWICK	-	28,890	70,313
WASHINGTON	16,679	23,752	58,939
WATERTOWN	2,375,554	4,427,251	2,675,788
WAYLAND	2,290,575	280,373	611,716
WEBSTER	6,923,221	62,006	2,079,811
WELLESLEY	2,949,947	96,838	1,163,702
WELLFLEET	116,462	-	54,888
WENDELL	-	25,534	109,541
WENHAM	-	139,794	285,763
WEST BOYLSTON	2,552,355	67,754	595,198
WEST BRIDGEWATER	1,570,286	47,212	552,344
WEST BROOKFIELD	118,149	-	392,097
WEST NEWBURY	-	-	251,169
WEST SPRINGFIELD	13,246,420	-	2,851,691
WEST STOCKBRIDGE	-	-	91,587
WEST TISBURY	-	182,434	30,556
WESTBOROUGH	2,592,041	145,058	859,807
WESTFIELD	29,328,636	-	5,085,250
WESTFORD	11,057,152	895,514	1,196,145
WESTHAMPTON	278,415	-	118,799
WESTMINSTER	-	-	538,162
WESTON	1,367,350	-	346,827
WESTPORT	3,945,860	-	1,124,879
WESTWOOD	2,108,502	36,263	635,077
WEYMOUTH	19,117,962	2,424,084	6,423,581

# Chap. 149

	7061-0008 Chapter 70	0611-5500 Additional Assistance	Lottery Distribution
Municipality			
WHATELY	124,453	-	106,535
WHITMAN	86,602	-	1,926,372
WILBRAHAM	-	-	1,077,658
WILLIAMSBURG	350,234	-	271,186
WILLIAMSTOWN	880,910	-	835,190
WILMINGTON	3,307,933	1,254,452	1,245,458
WINCHENDON	9,655,922	25,366	1,367,138
WINCHESTER	2,953,621	344,404	1,124,847
WINDSOR	18,887	28,020	54,390
WINTHROP	4,553,675	2,287,531	2,248,669
WOBURN	4,502,553	3,586,952	2,809,553
WORCESTER	158,861,691	11,809,090	26,953,316
WORTHINGTON	69,258	-	94,935
WRENTHAM	3,386,805	-	846,314
YARMOUTH	-	-	1,075,298
Total Aid to Regional Schools	509,425,091		
Total	3,183,282,601	378,517,988	661,378,162

	7061-0008 Chapter 70
Regional School District	
ACTON BOXBOROUGH	2,896,694
ADAMS CHESHIRE	9,545,220
AMHERST PELHAM	9,244,885
ASHBURNHAM WESTMINSTER	8,787,951
ASSABET VALLEY	2,441,550
ATHOL ROYALSTON	16,238,378
BERKSHIRE HILLS	2,614,817
BERLIN BOYLSTON	770,332
BLACKSTONE MILLVILLE	10,270,844
BLACKSTONE VALLEY	4,671,602
BLUE HILLS	3,035,559
BRIDGEWATER RAYNHAM	18,993,204
BRISTOL COUNTY	1,183,867
BRISTOL PLYMOUTH	6,022,585

	7061-0008
Regional School District	Chapter 70
CAPE COD	1,776,571
CENTRAL BERKSHIRE	7,636,182
CHESTERFIELD GOSHEN	638,591
CONCORD CARLISLE	1,417,979
DENNIS YARMOUTH	6,120,344
DIGHTON REHOBOTH	11,003,204
DOVER SHERBORN	1,138,654
DUDLEY CHARLTON	20,874,073
ESSEX COUNTY	3,664,972
FARMINGTON RIVER	360,806
FRANKLIN COUNTY	2,403,308
FREETOWN LAKEVILLE	6,365,955
FRONTIER	2,613,407
GATEWAY	5,307,852
GILL MONTAGUE	5,837,026
GREATER FALL RIVER	11,222,243
GREATER LAWRENCE	15,663,201
GREATER LOWELL	15,851,146
GREATER NEW BEDFORD	17,331,631
GROTON DUNSTABLE	9,547,245
HAMILTON WENHAM	3,061,591
HAMPDEN WILBRAHAM	9,400,100
HAMPSHIRE	2,383,522
HAWLEMONT	606,785
KING PHILIP	5,913,626
LINCOLN SUDBURY	1,711,978
MANCHESTER ESSEX	1,317,284
MARTHAS VINEYARD	2,631,535
MASCONOMET	4,313,567
MENDON UPTON	8,768,548
MINUTEMAN	2,052,550
MOHAWK TRAIL	5,904,434
MONTACHUSETT	7,836,897
MOUNT GREYLOCK	1,635,600
NARRAGANSETT	8,338,309
NASHOBA	5,181,573
NASHOBA VALLEY	1,908,915

	7061-0008
Regional School District	Chapter 70
NAUSET	3,122,423
NEW SALEM WENDELL	595,315
NORFOLK COUNTY	594,178
NORTH MIDDLESEX	18,837,421
NORTH SHORE	1,417,274
NORTHAMPTON SMITH	732,334
NORTHBORO SOUTHBORO	1,636,578
NORTHEAST METROPOLITAN	5,201,971
NORTHERN BERKSHIRE	2,877,607
OLD COLONY	2,524,441
OLD ROCHESTER	1,469,860
PATHFINDER	2,565,243
PENTUCKET	12,199,790
PIONEER	3,808,395
QUABBIN	15,119,489
QUABOAG	7,192,883
RALPH C MAHAR	4,324,323
SHAWSHEEN VALLEY	3,074,457
SILVER LAKE	5,606,085
SOUTH MIDDLESEX	2,131,644
SOUTH SHORE	1,680,242
SOUTHEASTERN	8,867,717
SOUTHERN BERKSHIRE	1,687,824
SOUTHERN WORCESTER	5,182,584
SOUTHWICK TOLLAND	6,978,429
SPENCER EAST BROOKFIELD	12,413,377
TANTASQUA	6,620,229
TRI COUNTY	3,406,264
TRITON	7,625,408
UPISLAND	767,074
UPPER CAPE COD	2,560,503
WACHUSETT	14,234,516
WHITMAN HANSON	21,130,837
WHITTIER	4,779,683
Regional Total	509,425,091

**SECTION 4.** Section 39 of chapter 3 of the General Laws, as appearing in the 2002

Official Edition, is hereby amended by inserting after the definition of "Authority" the following definition:-

"Client", an individual or business entity that contracts with another individual or business entity to receive lobbyist services.

**SECTION 5.** Said section 39 of said chapter 3, as so appearing, is hereby further amended by inserting after the definition of "Legislative agent" the following definition:-

"Lobbyist entity", an entity providing lobbyist services, consisting of at least 1 legislative or executive agent, including foreign or domestic corporation, association, sole proprietor, partnership, limited liability partnership or company, joint stock company, joint venture or any other similar business formation.

**SECTION 6.** Section 40 of said chapter 3 is hereby repealed.

**SECTION 7.** Said chapter 3 is hereby further amended by striking out section 41, as amended by section 3 of chapter 140 of the acts of 2003, and inserting in place the following section:-

Section 41. The state secretary shall keep a docket which may be in the form of an electronic database. All information required to be filed under this section shall be organized into the docket and shall be open and accessible for public inspection during normal business hours.

Each legislative agent, executive agent and lobbyist entity shall file an annual registration statement with the state secretary on forms prescribed and provided by the state secretary. The annual registration shall be completed not later than December 15 of this year preceding the registration year.

A client retaining the services of a legislative agent, executive agent or lobbyist entity shall also file an annual registration statement with the state secretary on forms prescribed and provided by the state secretary. The annual registration shall be completed not later than December 15 of the year preceding the registration year.

A client or lobbyist entity hiring, employing or agreeing to employ a lobbyist entity, legislative agent or executive agent after January 1 of the registration year shall, within 10 days after such employment or agreement, cause the name of the lobbyist entity, legislative agent or executive agent to be registered with the state secretary as provided in this section. Notice of termination of such employment shall also be filed promptly with the state secretary by the client or lobbyist entity.

The state secretary shall assess each lobbyist entity an annual filing fee of \$1,000 to register the entity on the docket. The state secretary shall assess each legislative agent and executive agent an annual filing fee of \$100 upon entering the agent's name on the docket. The state secretary shall assess each client an annual filing fee of \$100 for each lobbyist entity hired by them upon entering the name upon the docket. The state secretary may, in his discretion and upon written request, waive the filing fees not a not-for-profit client or a lobbyist entity which registers to exclusively represent not-for-profit clients.

Upon registration, the state secretary shall issue to each legislative agent and executive agent, a nontransferable identification card that shall include the person's name and

photograph. Out-of-state legislative agents and executive agents shall submit 3 passport-sized photographs to the state secretary upon registration.

**SECTION 8.** Clause Twenty-sixth of section 7 of chapter 4 of the General Laws, as appearing in the 2002 Official Edition, is hereby amended by inserting after subclause (n) the following 2 subclauses:-

(o) the home address and home telephone number of an employee of the judicial branch, an unelected employee of the general court, an agency, executive office, department, board, commission, bureau, division or authority of the commonwealth, or of a political subdivision thereof or of an authority established by the general court to serve a public purpose, in the custody of a government agency which maintains records identifying persons as falling within those categories; provided that the information may be disclosed to an employee organization under chapter 150E, a nonprofit organization for retired public employees under chapter 180, or a criminal justice agency as defined in section 167 of chapter 6.

(p) the name, home address and home telephone number of a family member of a commonwealth employee, contained in a record in the custody of a government agency which maintains records identifying persons as falling within the categories listed in subclause (o).

**SECTION 9.** Section 79 of chapter 6 of the General Laws, as so appearing, is hereby amended by inserting before the word "it", in line 36, the following words:- in conjunction with the executive office of health and human services,.

**SECTION 10.** Section 135 of said chapter 6 is hereby amended by striking out the last paragraph, added by section 7 of chapter 26 of the acts of 2003.

**SECTION 11.** Section 136 of said chapter 6 is hereby amended by striking out the last paragraph, added by section 8 of said chapter 26.

**SECTION 12.** Said chapter 6 of the General Laws, as amended by section 1 of chapter 46 of the acts of 2003, is hereby further amended by striking out section 172A and inserting in place thereof the following section:-

Section 172A. The criminal history systems board shall assess a fee of \$30 for each request for criminal offender record information. A fee shall not be assessed for a request from a victim of a crime, a witness or a family member of a homicide victim, all as defined in section 1 of chapter 258B, from a governmental agency, or from such other persons as the board shall exempt. Certified agencies that provide services to the elderly, children, victims of crime, medically infirm persons, or the physically or mentally challenged shall be assessed a fee of \$5 in addition to the agency's fee rate on June 30, 2003, unless exempted by the board. The criminal history systems board shall assess a fee of \$25 for each request for criminal offender record information from an individual seeking to obtain criminal offender record information pertaining to himself; provided, however, that if a person shall be found indigent, as defined in section 27A of chapter 261, the board shall not impose a fee. All such fees shall be deposited into the General Fund, excluding a nominal processing fee for online e-payments.

**SECTION 13.** (a) The purpose and intent of this section is to enhance available notification procedures to warn members of the general public of the likelihood they will encounter a level 3 sex offender in the community by allowing police departments to post certain information about such offenders on the internet as part of level 3 community notification plans, which the general court hereby finds to serve a substantial public safety interest.

(b) Section 178K of chapter 6 of the General Laws, as appearing in the 2002 Official Edition, is hereby amended by striking out the word "however," in line 152, and inserting in place thereof the following words:- that such active dissemination may include publication of such information on the internet by the police department at such time and in such manner as the police or the board deem reasonably necessary; and provided further,.

**SECTION 14.** Said chapter 6 is hereby further amended by inserting after section 184, as so appearing, the following section:-

Section 184A. There shall be in the executive office of public safety a forensic sciences advisory board, hereinafter called the board, which shall advise the secretary on all aspects of the administration and delivery of criminal forensic sciences in the commonwealth. The board shall consist of the undersecretary of public safety for forensic sciences, who shall also serve as chairperson of the board, the attorney general, the colonel of the state police, the president of the Massachusetts Chiefs of Police Association, the president of the Massachusetts Urban Chiefs Association, the president of the Massachusetts District Attorney's Association, a district attorney designated by the Massachusetts District Attorney's Association and the commissioner of the department of public health or their respective designees. The members shall serve without compensation. The board shall meet no less than quarterly and as otherwise convened by the undersecretary. The board shall coordinate its responsibilities with the medico-legal investigation commission and shall not infringe upon the commission's authority as established in section 184 of this chapter.

At the direction of the board, the undersecretary for forensic sciences shall advise the board on the administration and delivery of forensic services in the commonwealth. The undersecretary shall include in his report information as the board requests, including but not limited to the volume of forensic services required for each county, including costs and the length of time from submission for testing or procedures and return of results; the capacity of the commonwealth's forensic services and funding requirements; the accreditation of forensic facilities and training of personnel; facilities expansion, including location and funding for a new state police crime lab; and partnerships with other public and private forensic services. The undersecretary shall make recommendations for the allocation of resources and expansion of services, and on an annual basis, submit budget recommendations to the secretary of public safety and the board.

**SECTION 15.** Chapter 6A of the General Laws is hereby amended by inserting after section 16B, as so appearing, the following section:-

Section 16B½. (a) Notwithstanding any general or special law to the contrary, the secretary of the executive office of health and human services, in consultation with the secretary

of administration and finance and the secretary of public safety shall develop a coordinated, aggregate prescription drug procurement plan to manage and administer the disbursement, payment and reimbursement of prescription drugs, including claims processing, adjudication and client services for all pharmacy benefit plans funded or subsidized, in whole or in part by the commonwealth. The aggregate procurement plan shall separately manage any and all benefits, rules and functions regarding drug utilization and cost for programs subject to Section 1927(a)(1) of the Social Security Act, Title XIX. This plan shall maximize cost savings, efficiencies, enhance affordable access to prescriptions and be designed to improve health outcomes, benefits and coverage in said pharmacy benefit plans.

(b) Notwithstanding any general or special law to the contrary, as part of the aggregate procurement plan, the secretary shall seek competitive bids from third party pharmacy benefits managers who are interested in providing procurement services to the commonwealth. The secretary shall consider those pharmacy benefits managers with experience in the administration of publicly-funded health benefit plans and who are qualified to assess and manage the clinical efficacy and cost effectiveness of the pharmacy benefit plans on behalf of the commonwealth. Nothing in this section shall preclude a not-for-profit entity from participating in the competitive bid process; provided, that during such competitive bid process, a not-for-profit pharmacy benefit manager shall demonstrate the capacity to provide the same level of service quality, assessment and ability to manage the clinical efficacy and cost effectiveness of the administration of such aggregate procurement plan as that of a for-profit pharmacy benefit manager, provided further, that the secretary may establish an inter-governmental service agreement between or among agencies of the commonwealth for the provision of pharmacy benefit management services if said not-for-profit pharmacy benefit manager is selected for the provision of such services; and provided further, that the secretary may request the aggregate pharmacy benefit manager plan to disclose information regarding its marketing practices.

(c) A contract currently in existence with any agency or pharmacy benefits management company shall not be renewed or extended in a manner inconsistent with this section, but, a contract in existence with any agency or pharmacy benefits management company shall not be terminated before its expiration date if the termination would cause substantial financial cost or service interruption to the commonwealth.

(d) The secretary shall ensure that the aggregate procurement plan employs clinically-based tools to maximize cost savings, efficiencies, affordability, and to improve health outcomes and access to pharmacy benefits and coverage and effectively manage the pharmacy plans of the commonwealth.

(e) The secretary shall implement the aggregate procurement plan not later than November 5, 2004 and shall submit, on April 15 of each year, a report detailing the coordinated aggregate or bulk purchasing arrangement results for the previous year to the house and senate clerks, the chairpersons of the house and senate committees on ways and means and the chairs of the joint committee on healthcare. The report shall include, but not be limited to, a review of the aggregate procurement plan's achievement relative to:

(1) cost savings achieved during the previous fiscal year; (2) administrative costs relating to the management of the program for the previous fiscal year; (3) any recommendations for enhancing the benefits provided by each plan, savings costs, reducing inefficiencies and improving access and quality; and, (4) a cost-benefit analysis of the inclusion of other governmental entities, including but not limited to county, municipal and quasi-governmental entities within the aggregate pharmaceutical procurement plan.

**SECTION 16.** Section 16G of said chapter 6A, as appearing in section 550 of chapter 26 of the acts of 2003, is hereby amended by striking out subsections (d) and (e) and inserting in place thereof the following 2 subsections:-

(d) The following state agencies shall be within the department of labor: the division of industrial accidents, the division of conciliation and arbitration, the labor relations commission, the joint labor-management committee, and the division of occupational safety.

(e) The following state agencies and funds shall be within the department of workforce development: the one stop career centers, the state workforce investment board, the division of apprentice training, the commonwealth corporation, the workforce training fund, and the division of unemployment assistance. The division of unemployment assistance shall include the medical security trust fund and the unemployment insurance trust fund.

**SECTION 17.** Said chapter 6A is hereby further amended by inserting after section 16G, as so appearing, the following section:-

Section 16H. The secretary of health and human services shall convene interagency children's services teams to establish effective means of collaboration among and between human service agencies for the provision of supports and services to children and to determine which agency or agencies within the jurisdiction of the secretary shall provide or contract for appropriate services to a child in cases when disputes arise among human service agencies over the delivery of services to a child or when the services are not being provided to a child. For purposes of this section, "agency" shall mean a department, office, commission, board, institution or other agency of the commonwealth within the executive office of health and human services. The teams shall be created on a local or regional basis in accordance with regulations to be developed by the secretary.

The secretary or his designee shall chair the local or regional interagency children's services teams and preside over meetings. The interagency teams shall also include the commissioner or chief executive officer, or his designee, of the following agencies: the department of public health, the department of social services, the department of transitional assistance, the department of mental retardation, the department of mental health, the commission on the deaf and hard of hearing, the Massachusetts rehabilitation commission, the commission for the blind or any other agency within the executive office of health and human services which in the opinion of the secretary has a mission relevant to the child's needs, the legal obligations and budgetary capacity to ensure delivery of appropriate and needed human services to a child.

The interagency teams shall review the cases on a local or regional basis; seek to identify the assessments and services that might be provided to a family by agencies within the executive office of health and human services; provide opportunities to receive testimony and evidence from the child, the child's family, or the representative of the child or family as to the type of services or placements they feel would best serve their child's needs, and the types of services or placements they would not accept; provide opportunities to receive testimony and evidence from the representative or other employee of an agency; designate an agency to act as a lead agency for the purpose of service coordination with a detailed plan developed by the interagency team for collaboration between multiple agencies which takes into account the available resources in each agency; and, if necessary, designate an agency to provide or contract for such services; and direct the designated agency to accept responsibility for the child and provide or contract for the services.

Students may be referred to the local or regional interagency team by a parent, guardian, surrogate parent, other service provider of the child, educational advocate or legal advocate representing the child, who have been rejected for services by multiple agencies of the commonwealth, or by agencies or departments within the executive office of health and human services which have been unable to agree on proper jurisdiction and fiscal responsibilities. Written consent of the parent or guardian shall be required before said child is subject to this section and before any sharing of information concerning a child. All federal and state laws and regulations regarding consent, confidentiality, and privilege shall apply. The parent, guardian, surrogate parent, educational advocate or legal advocate of a child shall be provided notice in their primary language of their rights pursuant to this section, including notice of any referral by agencies within the jurisdiction of the executive office of health and human services, the requirement for parental consent to the release of information and records, and copies of all writings produced by the team; shall be part of the interagency team and shall be invited to interagency team meetings and participate actively in its work as it affects the child.

The interagency teams shall have full access to, and the agencies shall provide all information relevant to the cases if the appropriate consent is provided by parents or students, as may be established by applicable statutes or regulations. All confidential information shall be returned to its originating source upon completion of the team's work and shall not be retained by the interagency team or a member thereof and a member of the interagency team shall not disseminate confidential information to another individual or entity.

The interagency team shall keep a written record concerning the work of the interagency team with respect to each child referred to it, including information as to the services or placement sought, alternatives considered, conclusions reached, and further recommendations and the membership of the team. The parents and all relevant agencies shall be promptly informed of the results of the interagency team's work. Upon written request, a parent, legal guardian, surrogate parent and educational advocate and legal advocate of a student shall have the right to review and obtain access to, copies of the written record maintained by the interagency team. The written record maintained by the interagency

---

## Chap. 149

team shall be kept by the secretary, shall be kept confidential and shall not be disseminated by a team member.

Nothing herein shall be construed to alter individual education plan development processes, service provision or placement processes applicable to school districts or to alter existing due process rights and procedures under state or federal law. Further, the child and the parent, legal guardian, or educational surrogate of the child shall retain all applicable rights to consent or not to consent to an offered service that might be offered or recommended by the interagency team. Nothing herein shall be construed to require presentation of an issue to the interagency team before using any of the remedies under federal and state law including complaints to the department of education and hearings and mediations before the bureau of special education appeals.

If no collaborative plan is developed and no decision is agreed upon by a majority of the interagency team, the secretary shall designate and require an agency or multiple agencies in collaboration to provide appropriate and needed services to the child, provided, that the agency or agencies are authorized by statute or regulation to provide such services, and funding exists to pay for said services. If a designated agency fails to provide services to a child in a manner consistent with the decision of the team, the secretary shall review the matter. If the secretary finds that the decision of the interagency team is reasonable and within the jurisdiction of the designated agency, he shall direct the agency to provide services in accordance with the decision of the interagency team and shall take any other action consistent with state law to ensure that appropriate services are provided to the child; provided, that the agency or agencies are authorized by statute or regulation to provide such services, and funding exists to pay for said services.

The secretary shall promulgate regulations as to the operation of the interagency teams. These regulations shall mandate that the entire team process, including notification to all parties of the team's decision, shall be completed in no less than 30 working days. The regulations shall set forth an appeal pursuant to chapter 30A to a hearing officer appointed by the secretary.

For purposes of this section, "child" shall mean a person under the age of 18, or under the age of 22 if the person is disabled or has special needs.

The secretary shall issue an annual report no later than February 1 of each year summarizing the activities of the teams during the preceding fiscal year. Said report shall be filed with the house and senate clerks, the chairs of the house and senate ways and means committees, and the house and senate chairs of the joint committee on human services and elder affairs.

**SECTION 18.** Said chapter 6A is hereby further amended by striking out section 18½, as amended by section 22 of chapter 26 of the acts of 2003 and inserting in place thereof the following section:-

Section 18½. The secretary shall, subject to section 3, appoint 4 undersecretaries. Each person appointed as an undersecretary shall have experience and shall know the field

---

**Chap. 149**

or functions of such position, shall receive such salary as the secretary shall determine and shall devote his full time to the duties of the office.

One undersecretary shall be the undersecretary for law enforcement and administration and shall oversee the functions and administration of the following boards and agencies: the department of state police, the department of inspection and regulation, the emergency telecommunications board, the criminal history systems board, the automated fingerprinting identification system, the municipal police training committee, the committee on criminal justice, the registry of motor vehicles, the merit rating board, the governor's council on highway safety, the division of inspection and the architectural access board.

One undersecretary shall be the undersecretary of criminal justice and shall oversee the functions and administration of the following boards and agencies: the sex offender registry board, the department of corrections, including the parole board and all other agencies within said department.

One undersecretary shall be the undersecretary of homeland security and shall oversee the functions and administration of the following boards and agencies: the emergency management agency, the department of fire services, the military department and the nuclear safety department.

One undersecretary shall be the undersecretary for forensic sciences. The undersecretary shall work in conjunction with law enforcement authorities and shall coordinate all forensic science resources, appropriations and grants; shall oversee the functions and administration of the office of the chief medical examiner, the state police crime laboratory and such other forensic entities as the secretary shall assign from time to time; and shall convene the forensic science advisory board consistent with the duties set forth in section 184A of chapter 6.

Each undersecretary shall coordinate the functions and the programs of the agencies as directed by the secretary. Each undersecretary shall conduct studies of the operations of each agency and work with each agency in effecting procedures and programs which promote efficiency and improvements in the administration of the agency. Each undersecretary shall assist the secretary in reviewing and acting upon budgetary and other financial matters concerning those agencies in accordance with sections 2C, 3, 3A, 4, 9B and 29 of chapter 29.

**SECTION 19.** Said chapter 6A is hereby further amended by striking out section 18H, as appearing in the 2002 Official Edition, and inserting in place thereof the following section:-

Section 18H½. (a) The department of telecommunications and energy shall promulgate rules providing for the recovery by telecommunications companies of expenses that have been, are, or will be, until December 31, 2007, incurred that are associated with the services pursuant to sections 18A to 18F, inclusive, of this chapter and sections 14A and 15E of chapter 166. With respect to any deficit incurred by the telephone companies before the effective date of this section, the department of telecommunications and energy shall determine the portion of directory assistance revenues that will be used to offset that deficit,

including any interest the department may determine should be applied. The rules shall provide for the funding of the prudently incurred expenses by means of a charge on each voice grade exchange telephone line of business and residence customers within the commonwealth; but the surcharge applicable to centrex service shall be based on an equivalency provided to each private branch exchange trunk. In the development of the charge, all telephone companies shall submit to the department historical data verifying their participation in the statutory funding mechanism. The department of telecommunications and energy shall annually report to the general court concerning the financial condition of the fund and shall address in the report the reasonableness of the capital expenditures and related expenses of the statewide emergency telecommunications board incurred in complying with said sections 14A and 15E of said chapter 166.

(b) Each telecommunication company shall remit the surcharge revenues collected from its subscribers to the state treasurer for deposit in the Wireline Enhanced 911 Fund established in section 35W½ of chapter 10. The surcharge revenues shall be used by the board for the recovery by the board and telecommunications companies of expenses that have been, are or will be incurred in complying with sections 18A to 18F, inclusive, of this chapter and sections 14A and 15E of chapter 166.

**SECTION 20.** Section 4A of chapter 7 of the General Laws, as so appearing, is hereby amended by adding the following 4 paragraphs:-

In the event a new governmental mandate effective on or after July 1, 2004 is imposed upon a contractor providing a social service program, as defined in section 274 of chapter 110 of the acts of 1993, to a governmental unit, as defined in said section 274 of said chapter 110, and compliance with such governmental mandate has or will have a material adverse financial impact on the contractor, except a contractor for goods or services related to special education as defined in section 1 of chapter 71B, the governmental unit shall negotiate a contract amendment with the contractor to increase the maximum obligation amount or unit price to offset the material adverse financial impact of the new governmental mandate; provided, that the contractor furnishes substantial evidence to the governmental unit of such material adverse financial impact along with a request to renegotiate based on a new governmental mandate.

For the purposes of this section, a "new governmental mandate" shall mean a statutory requirement, administrative rule, regulation, assessment, executive order, judicial order or other governmental requirement that was not in effect when the contract was originally entered into and directly or indirectly imposes an obligation upon the contractor to take any action or to refrain from taking any action in order to fulfill its contractual duties.

For the purposes of this section, a "material adverse financial impact" shall mean: (1) an increase in the reasonable costs to the contractor in performing the contract of the lesser of: (i) 3 per cent of the maximum obligation amount or unit price of the contract; or (ii) \$5,000, in the aggregate as a result of all such mandates in effect during the contract year; or (2) an action that affects the core purpose and primary intent of the contract.

Any contractor aggrieved by a decision of a governmental unit denying or failing to negotiate a contract amendment to remedy a material adverse impact of a new governmental mandate pursuant to this section may appeal such adverse decision to the division of administrative law appeals in accordance with the section 4H for a hearing and decision de novo on all issues. A contractor's request for contract amendment shall, for purposes of appeal, be deemed to have been denied if a determination is not received within 30 days of the governmental unit's receipt of the request. A contractor or governmental unit may appeal an adverse decision of the division of administrative law appeals to the superior court, Suffolk division, pursuant to chapter 30A.

**SECTION 21.** The first paragraph of section 54 of said chapter 7, as so appearing, is hereby amended by inserting after paragraph (1) the following paragraph:-

(1A) The agency shall prepare a written statement that the services proposed to be the subject of the privatization contract shall not be provided by labor based or employed outside of the United States. No agency shall make a privatization contract and no such contract shall be valid if the services provided are from labor based or employed outside the United States.

**SECTION 22.** Chapter 8 of the General Laws is hereby amended by striking out section 9, as amended by section 32 of chapter 26 of the acts of 2003, and inserting in its place the following section:-

Section 9. The superintendent shall have charge of the care and operation of the state house, subject to rules as the committee on rules of the 2 branches acting concurrently may adopt, the John W. McCormack state office building, the Leverett Saltonstall state office building, the Springfield office building, the Pittsfield office building, the Erich Lindemann building, the Charles F. Hurley building and all state parking areas related thereto, and any other state properties designated by law, to be the responsibility of the superintendent of state office buildings, and shall see that the chambers and lobbies of the general court and of its committees are kept clean and in good order; shall superintend all ordinary repairs thereof and shall have charge of the current expenses for the care and preservation of the state house, and for the ordinary repairs of the furniture and fixtures therein. He shall take proper precautions against damage thereto, or to the furniture, fixtures or other public property therein; provided, however, that security in the state house shall be the responsibility of the director of the division of urban parks and recreation in consultation and coordination with the speaker of the house of representatives and the president of the senate. The director shall utilize the members of the urban park rangers program, established pursuant to section 34B of chapter 92, to maintain security; provided, however, that the commissioner shall carry out the responsibility subject to rules as the committee on rules of the 2 branches acting concurrently may adopt and shall not be subject to the authority of the superintendent. There shall be maintained an adequate passageway for foot passengers from north to south through the east wing or extension of the state house, to be kept open during the hours as the superintendent shall fix. The state house and all facilities located therein, including hearing

---

## Chap. 149

rooms, shall be accessible to, functional for and safe for use by physically handicapped persons; provided further that the state shall make available a certain number of designated handicapped parking spaces for the general public; provided, however, that no construction required for the accessibility, functionality and safety shall commence until the superintendent of state buildings has completed the study required in section 2.

**SECTION 23.** Chapter 10 of the General Laws is hereby amended by striking out section 28, as appearing in the 2002 Official Edition, and inserting in place thereof the following section:-

Section 28. The right of any person to a prize drawn is not assignable except under the following limited circumstances:

(1) Payment of any prize drawn may be paid to the estate of a deceased prize winner or to the IV-D agency under chapter 119A.

(2) Payment of any prize drawn may be made to any person under an appropriate judicial order.

(3) The commission may, by regulations adopted under section 24, permit assignment of prizes for purposes of paying estate and inheritance taxes, or to a trust the beneficiaries of which are the prize winner, his mother, father, children, grandchildren, brothers, sisters or spouse.

(4) Payment of any prize drawn may be made to a person under a voluntary assignment of the right to receive future prize payments, in whole or in part, if the assignment is made to a person or entity named as the assignee in an appropriate judicial order of a court of competent jurisdiction, which shall be the superior court sitting within and for the county in which the commission is situated or in which the assignor resides. Under this paragraph, a court may issue an order approving a voluntary assignment and directing the commission to make prize payments in whole or in part to the designated assignee, if the court finds that all of the following conditions have been met:

(A) the assignment is in writing, executed by the assignor and, by its terms, subject to the laws of the commonwealth;

(B) the court finds that the assignor:

(i) is of sound mind and not acting under duress,

(ii) has been advised regarding the assignment by his independent legal counsel and independent certified financial planner; for purposes of this clause, "independent" shall mean unrelated to, unassociated with, and not compensated by the assignee or the assignee's affiliates;

(iii) irrevocably agrees that he is subject to state income tax with respect to a gain or income which the assignor will recognize in connection with the transfer or assignment; and

(iv) understands and agrees that with regard to the assigned payments, the commonwealth, the commission, and the director shall have no further liability or responsibility to make said payments to the assignor.

(v) In making the findings under clauses (i), (ii), (iii), and (iv), absent a showing of

special circumstances or hardship, the court shall require the personal appearance and in-court affirmation of the assignor. For purposes of this section, "special circumstances or hardship" shall mean the assignor resides outside of the commonwealth or a health or other condition makes a court appearance unduly costly, dangerous, or burdensome, in which case the court may, in its discretion, take evidence by way of telephonic testimony, video deposition, or written affidavit.

(C) at the time he executed the assignment contract, the assignor was provided with a written disclosure statement setting forth, in bold type of not less than 14 points, the payments being assigned, by amounts and payment dates; the purchase price being paid; the rate of discount to present value, assuming daily compounding and funding on the contract date; and the amount, if any, of closing, administrative or other fees or charges that will be charged to him; but, the disclosure statement shall be in a form approved by the commission.

(D) the assignor was advised in writing, at the time he signed the assignment contract, that he had the right to cancel the contract, without any further obligation, within 10 calendar days following the date the contract was executed, upon return of any payment received in consideration for the contract.

(E) the assignment contract shall provide that delinquent child support obligations of the assignor and debts owed to a state agency by the assignor, as of the date of the court order, shall be paid in full, at closing.

(F) if the court determines at the time of the hearing set forth in subparagraph (B) that the assignment is not in compliance then the court shall have discretion to void the assignment without recourse or obligation to the proposed assignor or assignee.

(5) In the case of a voluntary assignment for consideration made under a judicial order pursuant to paragraph (4), the assignee shall withhold 5.3 per cent of the purchase price and pay that withheld amount to the commonwealth as state income tax withholding to credit the account of the assignor, within 10 days of closing the assignment transaction.

(6) In the case of a voluntary assignment for consideration made under paragraph (4), delinquent child support obligations of the assignor and debts owed to a state agency by the assignor that are not paid in full, at closing of the assignment contract shall be offset by the commission first against remaining payments or portions thereof due the prize winner and then against payments due the assignee.

(7) The commonwealth, the commission, the director, and the agents and employees of the commission shall be discharged of all further liability upon payment of a prize in full to the parties identified in a court order entered under paragraph (4), less any amount offset under paragraph (6).

(8) Soliciting to buy or offering to sell rights to lottery prize winnings, either by assignment or through pledge as collateral for a loan, shall not be deemed selling or offering for sale lottery tickets or shares under this chapter.

(9) The director may establish a reasonable fee, payable by the assignee, to defray administrative expenses associated with assignments made under this section, including the

---

## Chap. 149

cost to the commonwealth of a processing fee that may be imposed by a private annuity provider. The fee amount shall reflect the direct and indirect costs to the commonwealth associated with processing the assignments and shall be no greater than \$1,000 per transaction.

(10) Written notice of a proposed assignment under paragraph (4) and a court hearing concerning the proposed assignment shall be provided to the commission at least 10 days before a court hearing. The commission is not required to appear in or be named as a party to the action seeking judicial confirmation of an assignment under this section, but may intervene as of right in the proceeding. A certified copy of a court order approving a voluntary assignment shall be provided to the commission not later than 14 days before the date on which the payment is to be made.

(11) Nothing in this chapter shall exempt an assignee or person acting as broker, agent, or intermediary for an assignee, from the licensure requirement and other rules and restrictions imposed under section 96 of chapter 140.

(12) A court order obtained under paragraph (4), together with any other order issued in connection with any 1 prize drawn, shall not require the commission to divide payments among more than 3 different persons or entities.

(13) No business entity may seek or obtain an order approving a voluntary assignment of lottery prize payments under this section unless and until the business entity has first filed a written disclosure and registration statement with the state lottery and paid the registration fee specified in clause (iv) of this paragraph. The disclosure and registration statement shall list and disclose, under penalty of perjury under the laws of the commonwealth, the following:

(i) the registrant's name, mailing address, and telephone number;

(ii) the name and address of the registrant's agent for service of process in the commonwealth;

(iii) claims by a lottery winner, a state lottery, a consumer protection agency or a state, federal, or local prosecutor or enforcement agency against the registrant or its affiliates in a state or federal court within the past 5 years, and the status and disposition of the claims;

(iv) the registrant's privacy, "do-not-call" and non-harassment policies.

The registration and disclosure shall be accompanied by a non-refundable fee in the amount of \$2,500 payable to the commission by the registrant. All registrations and disclosures shall be maintained on file with the commission and shall be made available to a member of the public upon request.

(14) An assignment in violation of this section shall be invalid. The commonwealth, the commission, the director, and the agents and employees of the commission shall not be liable to make payments pursuant to an invalid assignment.

(15) This section shall prevail over section 9-405 of chapter 106.

**SECTION 24.** Said chapter 10 is hereby amended by inserting after section 35W, as so appearing, the following section:-

Section 35W½. There is hereby established and set up on the books of the commonwealth a separate fund to be known as the Wireline Enhanced 911 Fund. There shall be credited to the fund revenues received by the commonwealth from surcharges imposed under section 18H½ of chapter 6A; from appropriations; from gifts, grants, contributions and bequests of funds from any department, agency or subdivision of federal, state or municipal government, and any individual foundation, corporation, association or public authority; revenue derived from the investment of amounts credited to the fund; and federal funds made available for emergency telecommunication services. The fund shall be used solely for the purposes described in said section 18H 1/2 of said chapter 6A. Amounts credited to the fund shall be available for expenditure by the statewide telecommunications board, without further appropriation.

**SECTION 25.** Said chapter 10 is hereby further amended by adding the following section:-

Section 35Z. There is hereby established a separate fund to be known as the Counsel for Indigent Salary Enhancement Trust Fund. There shall be credited to said fund all revenues collected pursuant to an initial filing fee of \$15 for any private application for a criminal complaint for a misdemeanor by any party, not being a law enforcement officer or prosecutor, in any court of the commonwealth, from grants, gifts, contributions from any entity public or private and any revenue derived from the investment of amounts credited to said fund. The chief counsel for the committee for public counsel services shall expend funds, without further appropriation, solely for hourly rate enhancements for private bar advocates for the indigent. No expenditures from said fund shall cause said fund to be in deficiency at the end of a fiscal year. The chief justice for administration and management, in consultation with the comptroller and the chief counsel for the committee for public counsel services, shall report monthly to the house and senate committees on ways and means on the status of the fund. In the event that the chief justice for administration and management, in consultation with the chief counsel for the committee for public counsel services determines that the receipts for that fiscal year will be insufficient to pay hourly rate enhancements previously authorized, said chief counsel shall adjust hourly rate enhancements to ensure that the trust fund will have a positive balance at the end of the fiscal year.

On October 15 of each year the chief justice for administration and management, in consultation with the comptroller, shall certify and report to the house and senate committees on ways and means and the chief counsel for the committee for public counsel services the amount of trust fund receipts for the first quarter of the fiscal year and shall estimate total receipts for the fiscal year. No funds shall be expended from the trust before to the submission of said report. Upon receipt of the report, the chief counsel for the committee for public counsel services shall determine the hourly rate enhancement to be paid for that fiscal year, including retroactive payments for hours billed on or after July 1 of that fiscal year. Not more than \$12,000,000 shall be expended from the trust fund in any fiscal year. Hourly rate enhancements funded from this trust shall not be construed as a funding obligation in the general appropriation act or supplemental appropriation acts. Any amounts

received in excess of \$12,000,000 in any fiscal year shall be credited to the General Fund.

**SECTION 26.** Said chapter 10 is hereby further amended by inserting after section 35Z, added by section 25 of this act, the following section:-

Section 35AA. There shall be established and set up on the books of the commonwealth a separate fund to be known as the Smart Growth Housing Trust Fund to be used, without appropriation, by the department of housing and community development for the purpose of making payments to communities under section 10 of chapter 40R. Available revenues from the sale of state surplus lands, as provided for in law, appropriations from the General Fund and monetary sanctions imposed by the department of housing and community development under subsection (c) of section 7 of said chapter 40R shall be deposited into the trust fund. All monies deposited into the fund shall be expended exclusively for the purpose set forth in this section. No expenditure from said fund shall cause said fund to be in deficiency at the close of a fiscal year.

**SECTION 27.** Said chapter 10, as most recently amended by section 48 of chapter 26 of the acts of 2003, is hereby further amended by adding the following section:

Section 73. (a) There is hereby established a Water Supply Protection Pilot Program to be administered by and through a separate trust to be known as the Water Supply Protection Trust. Monies in said trust shall be deposited with the state treasurer in such manner as will secure the highest interest rate available consistent with safety of the trust and with the requirement that all amounts on deposit be available for immediate use.

(b) There shall be a board of trustees of the trust, which shall consist of the executive director of the Massachusetts water resources authority, the secretary of the executive office of environmental affairs or his appointee, a member appointed by the speaker of the house, a member appointed by the president of the senate, and a member jointly selected by the North Worcester County Quabbin Anglers and the Quabbin Fishermen's Association.

(c) The board of trustees shall meet on or before October 1, 2004 and at least quarterly thereafter, and shall serve without compensation. For purposes of board of trustee meetings and voting, a quorum shall be comprised of 3 of the board members. The board of trustees shall choose a chairperson by majority vote and shall make all decisions by majority vote. At a meeting held annually, said board of trustees shall review and approve the operating plan, the operating budget, the capital budgets, and other aspects of the annual work plan prepared jointly by the department of conservation and recreation and the Massachusetts water resources authority pursuant to that interagency memorandum of understanding between the department and the authority on or about April 27, 2004, as it may be amended from time to time, and which memorandum and the annual work plan prepared thereunder shall provide for the watershed and water supply protection responsibilities established for the authority and department under chapter 372 of the acts of 1984, chapter 36 of the acts of 1992, chapter 26 of the acts of 2003, and chapters 92 and 92A½ of the General Laws to be satisfactorily discharged. Any amendment to said memorandum shall not include an authorization to enter into any agreement to acquire, purchase or transfer any property, the title of which is vested in the commonwealth and/or

is considered to be watershed property by Massachusetts statute, as of the effective date of this act. The restriction in the preceding sentence shall not be construed to be inconsistent with the terms and conditions of this section as they relate to the operation and governance of the trust or any other provisions of this section.

Any provisions in the memorandum, as it may be amended from time to time, regarding the operation and governance of the trust shall be consistent with this section. In the event of an inconsistency between that memorandum and the terms and conditions of this section as they relate to the operation and governance of the trust, the terms and conditions of this section shall be dispositive.

(d) There shall be credited to the trust the following:

(1) all assessments against the authority established pursuant to section 11 of chapter 92A½, except for amounts to be paid in trust by the authority to the division of water supply protection for application to payments in lieu of taxes pursuant to chapter 59 of the General Laws, and against any other public or private entity by the commissioner of the department for the purpose of supporting the watershed and water supply activities set forth in subsection (e);

(2) all revenues generated by the department's division of water supply protection required to be offset from assessments against the authority pursuant to section 11 of said chapter 92A½, which shall include, but not be limited to, the sale of hydroelectricity, recreational or permits fees, and shall also include any access fees established pursuant to chapter 436 of the acts of 1990;

(3) all revenues from the sale of wood products harvested on those watershed lands under the management of the division of water supply protection;

(4) all payments from the authority for debt service under section 12 of said chapter 92A½;

(5) all interest earned on monies in the trust; and

(6) gifts, grants, donations, or other contributions made for the purpose of supporting the watershed and water supply activities set forth in subsection (e).

(e) Notwithstanding any general or special law or other restriction to the contrary, expenditures from the trust shall not be subject to appropriation and balances remaining at the end of any fiscal year shall not revert to the general fund, and expenditures from the trust shall be made only for the purposes set forth in the memorandum and annual work plan as approved by the board pursuant to subsection (c), including:

(1) the maintenance and operating costs of the department's division of water supply protection, as established in sections 1 to 20, inclusive, of chapter 92A½, including the costs of capital improvements necessary to ensure the safety and purity of the water supply and protection of watershed lands pursuant to state and federal standards, capital costs, and the costs of the purchase or leasing of vehicles and all other equipment as considered necessary by the division, and other authorized charges of the division of water supply protection, as set forth in the Annual Work Plan's operating plan, operating budget, and capital budgets prepared jointly by the department and authority, and reviewed and approved by the board

of trustees pursuant to subsection (c); provided, that no expenditure may be made for operating, maintenance, and capital costs of the department's division of water supply protection that were previously budgeted as expenses of the former department of environmental management that were non-reimbursable by the authority;

(2) department salaries, staffing levels, other employee expenses, operational expenses, acquisition of capital equipment, and all other expenses, as set forth in the Annual Work Plan's operating plan, operating budget, and capital budgets prepared jointly by the department and authority, and reviewed and approved by the board of trustees pursuant to subsection (c); and

(3) debt service payments for bonds authorized by the general court for the acquisition of fee simple, development, and other rights or interests in land in the areas regulated by said division of water supply protection, if the bonds were authorized and bonded indebtedness incurred before the establishment of the trust.

(f) For the purpose of accommodating timing discrepancies between the trust's receipt of revenues and related expenditures, the trust may incur expenses and the comptroller may certify payments from the trust in anticipation of trust receipts; but, the board of trustees shall annually certify to the comptroller that expenditures for the previous fiscal year did not exceed related assessments and trust receipts. No expenditures from said fund shall cause said fund to be in deficiency at the close of a fiscal year.

(g) The board of trustees shall not enter into any agreement to acquire, purchase, or transfer any assets and/or property the title of which is vested in the commonwealth, and/or considered to be watershed property by Massachusetts statute, as of the effective date of this act. Said restriction shall not be construed to be inconsistent with the terms and conditions of this section as they relate to the operation and governance of the trust, or any other provisions of this section.

**SECTION 28.** Section 1E of chapter 15 of the General Laws, as appearing in the 2002 Official Edition, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:- There shall be in the department a board of education, in this section and in sections 1F and 1G called the board, which shall consist of the chairman of the student advisory council established under this section; the chancellor of higher education; the commissioner of early education and care; 1 representative of a labor organization selected by the governor from a list of 3 nominees provided by the Massachusetts State Labor Council, AFL-CIO; 1 representative of business or industry selected by the governor with a demonstrated commitment to education; 1 representative of parents of school children selected by the governor from a list of 3 nominees provided by the Massachusetts Parent Teachers Association; and 3 members selected by the governor.

**SECTION 29.** Section 4 of chapter 15A of the General Laws, as most recently amended by section 683 of chapter 26 of the acts of 2003, is hereby further amended by striking out the first sentence and inserting in place thereof the following sentence:- The board of higher education, hereinafter referred to as the board, shall be composed of 11 voting members, consisting of the commissioner of education, ex officio, the commissioner

of early education and care, ex officio, 6 members appointed by the governor reflecting regional geographic representation, and 3 members chosen to represent public institutions of higher education.

**SECTION 30.** Section 5 of said chapter 15A of the General Laws, as appearing in the 2002 Official Edition, is hereby amended by striking out the second paragraph and inserting in place thereof the following paragraph:-

The board shall coordinate activities among the public institutions of higher education and shall engage in advocacy on their behalf, which advocacy shall include a sustained program to inform the public of the needs, importance, and accomplishments of the public institutions of higher education in the commonwealth.

**SECTION 31.** Section 7A of said chapter 15A, inserted by section 687 of chapter 26 of the Acts of 2003, is hereby amended by striking out subsection (f) and inserting in place thereof the following subsection:-

(f) The board shall use accountability objectives, performance measures and each institution's mission implementation plan to conduct annual evaluations of the performance of each institution. If an institution fails to meet a reasonable number of the accountability objectives, as determined by the performance measures, within a given year, the institution's board of trustees shall develop and implement a performance improvement plan and timetable to be approved by the board of higher education. Each plan shall be submitted to the house and senate committees on ways and means and the joint committee on education, arts and humanities. If the institution fails to achieve the agreed to targeted improvements and timeline, funds appropriated for the institution in the following fiscal year shall be disbursed by the board of higher education to the institution's board of trustees subject to the board's approval. The board shall not be prevented from amending the institutional allocation of any such institution.

**SECTION 32.** Section 9 of said chapter 15A, as most recently amended by section 52 of said chapter 26, is hereby further amended by adding the following paragraph:-

Notwithstanding any general or special law to the contrary, for the purpose of determining eligibility for in-state tuition rates and fees at public institutions of higher education, except the University of Massachusetts Medical School, an individual, other than a non-immigrant alien within the meaning of paragraph 15 of subsection (a) of Section 1101 of Title 8 of the United States Code, who has attended high school in the commonwealth for 3 or more years and has achieved graduation from a high school in the commonwealth or attained the equivalent thereof, shall be eligible for in-state tuition rates and fees at the University of Massachusetts, or any commonwealth state or community college upon determination by the board of higher education that no person qualified for in-state tuition rates and fees under chapter 15A shall be denied such in-state tuition and fees upon the granting of eligibility under this paragraph; but, in the case of an individual who is not a citizen or permanent resident of the United States, the individual shall provide the University of Massachusetts, or the state or community college with an affidavit stating that the individual has filed an application to become a citizen or permanent resident of the United

States, or shall file an application at the earliest opportunity the individual is eligible to do so.

**SECTION 33.** Said chapter 15A is hereby amended by striking out section 15F, as appearing in the 2002 Official Edition, and in inserting in place thereof the following section:-

Section 15F. It is hereby declared to be the policy of the commonwealth to encourage public community college training opportunities in order to promote workforce development, minimize the shortage of skilled workers and raise economic opportunity through a matching incentive grant program to be known as the community college workforce training incentive program. Subject to appropriation, the board of higher education shall establish guidelines for the distribution of community college workforce training incentive grants; provided, however, that said guidelines shall provide: (i) allowable incentive grant awards which shall not exceed \$200 for every \$1,000 in eligible revenues; (ii) minimum requirements for the level of not-for-credit vocationally-oriented instruction which shall be provided by incentive grant recipients in the fiscal year in which such grant is awarded. Each community college which is eligible for grant awards in a fiscal year shall, subject to appropriation, receive not less than \$50,000 from the total amount appropriated for the incentive program to fund the salary of a workforce training coordinator at each such campus. For the purposes of this section, eligible revenues shall be defined as revenues received by a community college for one of the following purposes: tuition and fees paid by students enrolled in not-for-credit vocationally-oriented courses; tuition and fees paid by Massachusetts employers on behalf of employees enrolled in not-for-credit vocationally-oriented courses; and revenues from service contracts with Massachusetts employers to provide not for-credit vocationally-oriented training. Revenues from contracts with public agencies, public grants or private gifts shall not be considered eligible revenues for the purposes of this section. Incentive grants shall be expended for the following purposes: to expand not-for-credit vocationally oriented course offerings; to expand not-for-credit vocationally-oriented instruction provided through contracts with Massachusetts employers; and to otherwise promote not-for-credit vocationally-oriented instruction. Each community college campus shall report not later than December 31, annually, to the board of higher education and the house and senate committees on ways and means on the level of not-for-credit vocationally-oriented instruction provided in the preceding fiscal year and the anticipated level of such instruction in the current fiscal year. Said report shall detail enrollment levels, revenues received, sources of revenues, the number of service contracts established with Massachusetts employers and such other information as the board of higher education may require.

**SECTION 34.** Section 24A of said chapter 15A, as so appearing, is hereby amended by striking out, in line 6, the words "in the commonwealth".

**SECTION 35.** The General Laws are hereby amended by inserting after chapter 15C the following chapter:-

**CHAPTER 15D**  
**DEPARTMENT OF EARLY EDUCATION AND CARE**

Section 1. It is hereby declared to be the policy of the commonwealth to assure every child a fair and full opportunity to reach his full potential by providing and encouraging services which maximize a child's capacity and opportunity to learn, which strengthen family life, and which support families in their essential function of nurture for a child's physical, social, educational, moral, and spiritual development.

Section 2. There shall be a department of early education and care, in this chapter called the department, which shall serve as the lead agency for the administration of all public and private early education and care programs and services. The department shall be the state agency responsible for compliance with early education and care services under the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Pub. L. 104-193), or any successor federal statute. The department shall be the state education agency for the purposes of early education and care services under federal law. The department shall seek, apply for and encourage the use of any federal funds for early education and care services, and shall facilitate the coordination of federal, state, and local policies concerning early education and care. The department shall be under the supervision and control of a board of early education and care.

Section 3. (a) There shall be a board of early education and care, hereinafter referred to as the board. The board shall set policies and establish regulations related to early education and care programs, and services. The Board shall oversee and supervise the administration of a high-quality system of public and private early education and care. The board shall oversee the development and implementation of a program of voluntary, universally accessible high-quality early childhood education to all preschool-aged children in the commonwealth, subject to appropriation. The board shall oversee the development and management of an educationally sound kindergarten readiness assessment for pre-school children and a comprehensive evaluation of early education and care programs, including the establishment of baseline data to inform the design and implementation of a universally accessible, high-quality early education and care program for all pre-school age children. The board shall oversee the development and implementation of a workforce development system designed to support the education, training and compensation of the early education and care workforce, including all center, family child care, infant, toddler, preschool and school-age providers.

(b) The board shall consist of 9 members, and shall include: the secretary of health and human services, ex-officio; the commissioner of the department of education, ex-officio; the chancellor of higher education, ex-officio; and 6 members appointed by the governor. Of the members appointed by the governor, 1 shall be a representative of the business community with a demonstrated commitment to education; 1 shall be an early education and care teacher, selected from a list of 3 nominees jointly provided by the Massachusetts Teachers Association and the Massachusetts Federation of Teachers; 1 shall be a parent or

guardian of a child receiving early education and care services or a family childcare provider; 1 shall be a provider of early education and care services with practical experience in the management and administration of early education and care programs; 1 shall be a person with expertise in the evaluation and assessment of successful pre-school education programs; and 1 shall be a pediatrician with a focus on child development or a person nationally recognized for research in the field of educational psychology.

In making the appointments, the governor shall seek to appoint persons who are from geographically diverse regions of the commonwealth, who are familiar with the differing interests, perspectives and needs of urban, rural and suburban regions, and who reflect the ethnic and racial diversity of the commonwealth's children. In appointing members from urban areas of the commonwealth, the governor shall seek to appoint people who are familiar with the particular issues of urban areas with high concentrations of low-income families. Each of the members chosen shall have a demonstrated interest in and commitment to early education and care and a commitment to maximizing family choice by preserving a mixed system of high-quality public and private programs.

Five members shall constitute a quorum, and the affirmative vote of 5 members shall be necessary for any action taken by the board.

Appointed members shall serve for terms of 5 years. No member shall be appointed to serve more than 2 consecutive full terms. Upon expiration of the term of office of an appointed member, a successor shall be appointed in like manner. If an appointed member is absent from any four regularly scheduled meetings, exclusive of July and August, in any calendar year, his office as a member of said board shall be deemed vacant. The chairperson of the board shall forthwith notify the governor that such vacancy exists.

No appointive member of said board shall be employed by or receive regular compensation from the department of early education and care. The governor shall appoint a chairperson to the board. Not more than 2 appointive members of the board shall be employed on a full-time basis by an agency of the commonwealth. The members of the board shall be reimbursed for their necessary expenses incurred in the performance of their duties. The board shall meet not fewer than 10 times annually at the call of the chairman.

No member of the board shall be found to be in violation of section 6 of chapter 268A for conduct which involves his participation, as a member of the board, in a particular matter before the board which may affect the financial interest of an early education and care program with which the member is affiliated; provided, however, that the member, his immediate family or partner has no personal and direct financial interest in the particular matter; and provided, further, that the affiliation is disclosed to the board and recorded in the minutes of the meeting of the board.

(c) The purposes of the board are as follows:

(1) to consolidate and coordinate resources and public funding streams for early education and care in order to assure the sound and coordinated development of all early education and care services to children;

---

## Chap. 149

(2) to encourage family choice by ensuring a mixed system of high-quality public and private programs, with local points of entry, staffed by well-qualified professionals;

(3) to assure parents a decisive role in the planning, operation, and evaluation of programs which aid families in the care of children;

(4) to provide consumer education and accessibility to early education and care resources;

(5) to advance the quality of early education and care programs in order to support the healthy development of children and preparation for their success in school;

(6) to develop a seamless service delivery system of early education and care programs administered by local, state and federal agencies, with local points of entry;

(7) to develop and manage an effective data collection system to support the necessary functions of a coordinated system of early education and care in order to enable accurate evaluation of its impact;

(8) to respect and draw upon family values and cultural heritage;

(9) to establish the administrative framework for and promote the development of early education and care services in order to provide that such services, staffed by well-qualified professionals, shall be available in every community for all families which express a need for them;

(10) to assure that family foster care or other residential care is provided only when the family itself or the resources available to the family are unable to provide the necessary care and protection to insure the rights of any child to sound development; and

(11) to assure that every child shall in all circumstances be protected against all forms of neglect, cruelty, abuse, and exploitation.

(d) The board shall review and approve federal grant applications for early education and care programs and may develop guidelines as needed for the disbursement of such funds in accordance with law. The board shall be the approving authority for all federal grants that are applied to public and private early education and care programs in the commonwealth.

(e) The board shall submit an annual report to the governor, the clerks of the house of representatives and senate, and the joint committee on education, arts and humanities, describing its progress in achieving the goals and implementing the programs authorized in this chapter. The report shall evaluate the progress of the commonwealth in moving toward a system of universal early education and care for 3, 4 and 5-year-old pre-school children.

Section 4. The board of early education and care shall by a  $\frac{2}{3}$  vote of its members appoint a commissioner of early education and care, in this chapter called the commissioner, and may in its discretion by majority vote of its members remove the commissioner. The commissioner shall be the secretary to the board and its chief executive officer. The commissioner shall receive a salary to be determined by the board.

Subject to the approval of the board of early education and care, the commissioner may apply for and accept on behalf of the commonwealth, any federal, local, or private grants, bequests, gifts, or contributions to aid in the financing of any of the programs or policies of the department. Such funds shall be received by the state treasurer on behalf of

the commonwealth and deposited in a separate account and shall be expended under the direction of the commissioner, with the approval of the board of early education and care. Federal funds paid as reimbursement to the commonwealth shall be deposited in the General Fund.

Section 5. The board shall develop and annually update an implementation plan for a workforce development system designed to support the education, training and compensation of the early education and care workforce, including all center, family child care, infant, toddler, preschool and school-age providers. The board shall solicit input from organizations and agencies that represent a diverse spectrum of expertise, knowledge and understanding of broader workforce development issues and of the professional development needs of the early childhood and care workforce. In order to inform the plan, the board shall conduct:

(1) an inventory and assessment of the current resources and strategies available for workforce and professional development in the commonwealth, including but not limited to Head Start trainings, community-based trainings, higher education programs, child care resource and referral agency trainings, state and federally funded workforce development trainings/programs, public school system trainings/credentialing, and other trainings that address the needs of those who work with children and make recommendations for coordinating the use of those existing resources and strategies;

(2) analyses using current data on the status of the early education and care workforce, including work experience, certifications, education, training opportunities, salaries, benefits and workplace standards; and

(3) an assessment of the workforce capacity necessary to meet the state's early education and care needs in the future.

In the development of the plan, the board shall consider:

(1) core competencies, a common and shared body of knowledge, for all those working in the early education and care fields;

(2) streamlined and coordinated state certification, credentialing, and licensing within the early education and care fields including teacher and provider certification and licensing, the child development associate, public school teacher certification, and other program standards as appropriate for director, teacher and provider credentialing requirements;

(3) a mandatory and regularly updated professional development and qualification registry;

(4) agreements among higher education institutions for an articulated system of education, training, and professional development in early education and care;

(5) approval of early education and care training programs and academic coursework, incentives for associates and bachelors programs to meet best practices and to modify curricula to reflect current child development research, and certification of trainers and teachers;

(6) coordination of existing workforce resources among public agencies, including establishing regional workforce support resources in coordination with child care resource

and referral agencies;

(7) a range of professional development and educational opportunities that provide appropriate coursework and degree pathways for family child care as well as center-based providers at all levels of the career ladder that are available in locations, days, and times that are accessible;

(8) credit for prior learning experiences, development of equivalencies to 2 and 4 year degrees, and the inclusion of strategies for multiple pathways for entry into the field of early education and care;

(9) recruitment and retention of individuals into the early education and care workforce who reflect the ethnic, racial, linguistic, and cultural diversity of Massachusetts families based on the current census data;

(10) incentives and supports for early education and care professionals to seek additional training and education, such as scholarships, stipends, loan forgiveness connected to a term of service in the field, career counseling and mentoring, release time and substitutes;

(11) guidelines for a career ladder or career lattice representing salaries and benefits that suitably compensate professionals for increases in educational attainment and with incentives for advancement, including a salary enhancement program;

(12) public and private resources to support the workforce development system;

(13) a data collection and evaluation system to determine whether the workforce and professional development activities established pursuant to this chapter are achieving recruitment, retention and quality of the workforce goals; and

(14) ways to recognize and honor advancements in educational attainment among early education and care professionals.

**SECTION 36.** Section 14 of chapter 19A of the General Laws, as appearing in the 2002 Official Edition, is hereby amended by striking out the definition of "Abuse", and inserting in place thereof the following definition:-

"Abuse", an Act or omission which results in serious physical or emotional injury to an elderly person or financial exploitation of an elderly person; or the failure, inability or resistance of an elderly person to provide for him one or more of the necessities essential for physical and emotional well-being without which the elderly person would be unable to safely remain in the community; provided, however, that no person shall be considered to be abused or neglected for the sole reason that such person is being furnished or relies upon treatment in accordance with the tenets and teachings of a church or religious denomination by a duly accredited practitioner thereof.

**SECTION 37.** Section 4 of chapter 19D of the General Laws, as so appearing, is hereby amended by inserting after the second paragraph the following paragraph:-

Notwithstanding the previous paragraph, no fees, including minimum fees, for initial certification or certification renewal shall be due from any provider for assisted living units created under the HUD Assisted Living Conversion Program.

**SECTION 38.** Section 8 of chapter 21A of the General Laws, as so appearing, is hereby amended by inserting after the word "include", in line 103, the following words:- the office of law enforcement,.

**SECTION 39.** Section 13 of said chapter 21A, as so appearing, is hereby amended by inserting after the sixth sentence the following sentence:- The department shall not require an inspection of a system for the treatment and the disposal of sanitary sewage below the ground surface if the transfer is of residential real property, and is between the following relationships: (1) between current spouses; (2) between parents and their children; (3) between full siblings; and (4) where the grantor transfers the real property to be held in a revocable or irrevocable trust, where at least one of the designated beneficiaries is of the first degree of relationship to the grantor.

**SECTION 40.** Subsection (d) of section 18 of said chapter 21A, as so appearing, is hereby amended by adding the following 2 clauses:-

(6) Notwithstanding the requirements of clauses (1) to (4), inclusive, the department and a permit applicant may agree upon appropriate fees, related funding and schedules for projects meeting the criteria in clauses (1) and (2) or for projects determined by the commissioner to be of significant environmental interest to the commonwealth or that are consistent with sustainable development principles. With input from the advisory committee the department shall establish guidelines for the implementation of this subsection, including ensuring consideration of the allocation of department permitting resources and whether the project serves a significant public interest, and offers opportunities to restore, protect, conserve or enhance natural resource. All amounts received by the department for these projects shall be deposited in the fund established in clause (7) and may be expended by the department in accordance with the requirements of clause (7).

(7) There shall be established and set up on the books of the commonwealth a separate trust to be known as the Special Projects Permitting and Oversight Fund. There shall be credited to the fund all amounts received by the department from permit applicants for projects identified in clause (6). All amounts credited to the fund may be expended by the department without further appropriation for the purpose of permitting, technical assistance, compliance, other related activities associated with said projects, including all direct and indirect costs of department personnel or contractors. With agreement of the project applicants, any amount credited to the fund in excess of the amount expended to complete the department's permitting, technical assistance, compliance, or other related activities associated with said projects, may be retained in the fund. The funds may be expended by the department to support projects in economically distressed areas. An economically distressed area is an area or municipality that has been designated as an economic target area, or that would otherwise meet the criteria for such designation under section 3D of chapter 23A. The department's expenditure of the funds shall be in accordance with relevant state law applicable to the expenditure and record keeping of state funds and shall be subject to audit by the state auditor.

**SECTION 41.** Chapter 21A of the General Laws is hereby amended by adding the following section:-

Section 21. The department of environmental protection shall ensure that all dental clinics install, use and maintain advanced filtration technology, ISO 11143 certified amalgam separators at each dental office in Massachusetts that places, replaces or removes amalgam fillings.

**SECTION 42.** Section 3B of chapter 21E of the General Laws, as appearing in the 2002 Official Edition, is hereby amended by striking out the third paragraph and inserting in place thereof the following paragraph:-

Notwithstanding any general or special law to the contrary, the department may, by regulation, establish annual compliance assurance fees for sites or vessels, payable by all persons, excluding agencies of the commonwealth, who are, or are required to be, performing response actions at such sites or vessels, or who have been notified by the department that they are potentially liable for such sites or vessels pursuant to section 5, for each year or fraction thereof in which such response actions are performed or required to be performed, from the time that notice is first required to be given to the department, pursuant to section 7, until the time that a level of no significant risk has been achieved in accordance with subsection (g) of section 3A; provided, however, that such fees shall not apply to sites or vessels for which a level of no significant risk has been achieved within a short duration in response to a sudden release or threat of release of oil or hazardous material. Such fees shall be based on the department's cost for inspection, auditing, enforcement and compliance activities.

**SECTION 43.** Said section 3B of said chapter 21E, as so appearing, is hereby further amended by striking out, in line 49, the words "carrying out such response action" and inserting in place thereof the following:- owing such fee.

**SECTION 44.** Said section 3B of said chapter 21E, as so appearing, is hereby further amended by striking out, in lines 74 and 75, the words "for those response actions at or."

**SECTION 45.** Section 5 of chapter 21J of the General Laws, as it presently appears, is hereby amended by striking out, in lines 7 and 8, the words "one million dollars for reimbursement under section 4(a)(1) and one million dollars" and inserting in place thereof the following words:- \$1,500,000 for reimbursement under section 4(a)(1) and \$1,500,000.

**SECTION 46.** The first sentence of section 3 of chapter 22E of the General Laws, as amended by section 1 of chapter 107 of the acts of 2003, is hereby further amended by striking out the words "shall, within 1 year of such conviction or adjudication, submit a DNA sample to the department, which shall be collected by a person authorized under section 4, in accordance with regulations or procedures established by the director." and inserting in place thereof the following words:- shall submit a DNA sample to the department within 1 year of such conviction or adjudication or, if incarcerated, before release from custody, whichever occurs first. The sample shall be collected by a person authorized under section

4, in accordance with regulations or procedures established by the director.

**SECTION 47.** Section 9J of chapter 23 of the General Laws, as most recently amended by section 555 of chapter 26 of the acts of 2003, is hereby further amended by striking out the first sentence and inserting in place thereof, the following 2 sentences:- The secretary, in consultation with the director of workforce development, may adopt, amend, alter or repeal, and shall enforce, all rules, regulations and orders necessary for the administration and enforcement of chapter 151A. The secretary shall seek the approval of the director of workforce development if the changes may affect the operations of the free public employment offices.

**SECTION 48.** Section 11E of said chapter 23, as appearing in the 2002 Official Edition, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:- There shall be in the department of workforce development an apprenticeship council, to consist of 8 members, 6 of whom shall be appointed by the director of workforce development with the approval of the governor, 1 of whom shall be the director of workforce development or his successor, ex officio, and 1 of whom shall be the associate commissioner of career and technical education or his successor, in the department of education, ex officio.

**SECTION 49.** Section 11H of said chapter 23, as so appearing, is hereby amended by striking out the definition of "Director" and inserting in place thereof, the following definition:-

"Director", the director of workforce development.

**SECTION 50.** Said section 11H of said chapter 23, as so appearing, is hereby further amended by striking out the definition of "Division" and inserting in place thereof, the following definition:-

"Division", the division of apprentice training in the department of workforce development.

**SECTION 51.** Section 3 of chapter 23H of the General Laws, as appearing in section 571 of chapter 26 of the acts of 2003, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:- Within the department, there shall be the following agencies and divisions: a division of apprentice training, which shall administer sections 11E to 11W, inclusive, of chapter 23; a division of career services, which shall administer section 6 of this chapter; a division of unemployment assistance that shall administer chapter 151A; and other divisions as the director considers necessary to administer and enforce the department's other obligations.

**SECTION 52.** Section 6 of said chapter 23H, as so appearing, is hereby amended by striking out subsection (a) and inserting in place thereof the following subsection:-

(a) The director of workforce development shall administer the system of free public employment offices established in sections 160 to 168A, inclusive, of chapter 149, through the division of career services.

**SECTION 53.** Said chapter 23H is hereby amended by adding the following section:-

Section 8. The director of workforce development shall administer and enforce the unemployment insurance system and the medical security trust as established in chapter 151A. The director, with the approval of the secretary, may assign personnel, responsibilities and duties under federal law to any office or division within the department in order to maximize efficiency of resources and service delivery.

**SECTION 54.** Chapter 25A of the General Laws is hereby amended by inserting after section 11G, as appearing in the 2002 Official Edition, the following section:-

Section 11H. (a) The division of energy resources may make an assessment against each electric and gas utility company doing business in the commonwealth. This section shall not apply to municipally owned electric and gas companies.

(b) The assessments shall be made to finance activities undertaken by the division in accordance with section 11G related to oversight and coordination of ratepayer funded programs for energy efficiency, energy conservation, and demand reduction programs.

(c) The assessment shall be made at a rate determined and certified annually by the commissioner as sufficient to reimburse the commonwealth for funds appropriated by the general court for activities of the division related to the oversight and coordination of programs for energy efficiency, energy conservation, and demand reduction. From July 1, 2004 to December 31, 2004, inclusive, the assessment shall not exceed an amount equal to 0.375 per cent of the total annual mandatory charge collected by each utility company under section 19 of chapter 25 in the case of electric companies, or 0.375 per cent of the efficiency budgets as approved by the department of telecommunications and energy or otherwise required by law in the case of gas companies, as applicable. Beginning January 1, 2005, the assessment shall not exceed an amount equal to 0.75 per cent of the total annual mandatory charge collected by each utility company under section 19 of chapter 25 in the case of electric companies, or 0.75 per cent of the efficiency budgets as approved by the department of telecommunications and energy or otherwise required by law in the case of gas companies, as applicable. Assessments made under this section shall be charged by the utility companies against the revenues so collected under section 19 of chapter 25 or as the revenues are approved by the department of telecommunications and energy or otherwise required by law, as applicable. Each company shall pay the amount assessed against it within 30 days after the date of the notice of assessment from the division.

**SECTION 55.** Said chapter 25A is hereby amended by adding the following section:-

Section 13. (a) Notwithstanding any general or special law to the contrary, the division may apply for, receive, retain, redeem, sell or transfer any energy conservation credits, renewable energy certificates or credits, emissions credits, or energy reduction allowances earned or received by the commonwealth including but not limited to allowances awarded through the public benefit set-aside provisions of the NO<sub>x</sub> Allowance Trading Program implemented by the department of environmental protection.

(b) There shall be established upon the books of the commonwealth a separate fund to be known as the Division of Energy Resources' Credit Trust Fund. There shall be credited to said fund all amounts received through the redemption or sale of such certificates, credits and allowances specified in this section and any income derived from the investment of amounts credited to the fund. All amounts credited to the fund shall be held in trust and shall be available for expenditure, subject to appropriation, by the division of energy resources for activities of the division related to the development, oversight and implementation of programs for energy reliability, renewable energy, public procurement of energy and energy efficiency, and climate change. Any unexpended balance in the fund at the close of a fiscal year shall remain in the fund and shall be available for expenditure in the following fiscal year; provided however, that the fund shall not be in deficit at the end of any state fiscal year.

**SECTION 56.** Chapter 29 is hereby amended by inserting after section 2MMM the following section:-

Section 2NNN. There shall be established and set up on the books of the commonwealth a separate fund known as the State Mental Health Facilities Disposition Fund to be expended, subject to appropriation, by the department of mental health. Notwithstanding section 548 of chapter 28 of the acts of 2003, the fund shall consist of 25 per cent of monies derived from the sale, lease, sublease, granting of easements or other conveyances related to any state mental health facility, excluding the former Medfield state hospital parcels and other facilities for which a reuse plan has been developed, declared to be a surplus by the division of capital asset management and maintenance. Monies deposited into the fund shall be expended exclusively by the department for one-time improvements to decent, safe, sanitary and supported housing for individuals who are clients of the department of mental health. The books and records of the State Mental Health Facilities Disposition Fund shall be subject to a biennial audit by the state auditor. No expenditure from said fund shall cause said fund to be in deficiency at the close of a fiscal year.

**SECTION 57.** Said chapter 29 is hereby further amended by inserting after section 2NNN, inserted by section 56 of this act, the following section:-

Section 2000. There shall be established and set up on the books of the commonwealth a separate fund known as the State Mental Retardation Facilities Disposition Fund to be expended, subject to appropriation, by the department of mental retardation. Notwithstanding section 548 of chapter 28 of the acts of 2003, the fund shall consist of 25 per cent of monies derived from the sale, lease, sublease, granting of easements or other conveyances related to any state mental retardation facility, excluding facilities for which a reuse plan has been developed, declared to be a surplus by the division of capital asset management and maintenance. Monies deposited into the fund shall be expended exclusively by the department for one-time improvements to decent, safe, sanitary and supported housing for individuals who are clients of the department of mental retardation. The books and records of the State Mental Retardation Facilities Disposition Fund shall be subject to a biennial audit by the state auditor. No expenditure from said fund shall cause said fund to be in deficiency at the close of a fiscal year.

**SECTION 58.** Section 7H of said chapter 29, as appearing in the 2002 Official Edition, is hereby amended by inserting after the word "decreased", in line 53, the following words:- , or that appropriations or statutory amendments that would provide funding to support recommended levels of appropriations have materially changed.

**SECTION 59.** Section 9B of said chapter 29, as so appearing, is hereby amended by striking out, in line 18, as so appearing, the word "fifteen" and inserting in place thereof the following figure:- 60.

**SECTION 60.** Section 27B of said chapter 29, as so appearing, is hereby amended by inserting after the word "four", in line 7, the following words:- , and at least 30 days written notification has been given to the house and senate committees on ways and means.

**SECTION 61.** Section 29E of said chapter 29, as so appearing, is hereby amended by inserting after the first sentence, the following sentence:- The comptroller shall notify, in writing, the house and senate committees on ways and means 60 days before entering into any contract authorized pursuant to this section.

**SECTION 62.** Chapter 30 of the General Laws, is hereby amended by inserting after section 9I, as so appearing, the following section:-

Section 9J. In the event that the functions performed by employees in one department or agency are transferred to another department or agency, the employees performing such functions shall be transferred to the receiving department or agency without impairment of wages, seniority, collective bargaining, civil service or other rights enjoyed at the time of the transfer. Nothing in this section shall prohibit any reduction in workforce otherwise permitted under collective bargaining agreements or civil service rules or regulations.

**SECTION 63.** Section 59 of said chapter 30, as so appearing, is hereby amended by inserting after the word "him", in line 26, the following words:- , subject to section 15 of chapter 32. The employer of any person so suspended shall immediately notify the retirement system of which the person is a member of the suspension and shall notify the retirement board of the outcome of any charges brought against the individual.

**SECTION 64.** Section 65 of said chapter 30, added by section 173 of chapter 26 of the acts of 2003, is hereby amended by striking out subsection (c) and inserting in place thereof the following subsection:-

(c) Instead of making the certificate under clause (1) of subsection (a), the governor's chief legal counsel may, upon written request by the head of any department, agency, board or commission, with the written approval of the head thereof and with the voluntary written consent of the attorney who is a state employee, provide specific legal services for the requesting department, agency, board or commission for a period not exceeding 3 months but subject to renewal with the voluntary written consent of the attorney. Such an assignment shall be subject to any applicable collective bargaining agreement. The certification required of the comptroller by the fourth paragraph of section 31 of chapter 29 shall not be required in instances of such an assignment by the governor's chief legal counsel.

**SECTION 65.** Section 1 of chapter 32 of the General Laws, as appearing in the 2002 Official Edition, is hereby amended by inserting after the definition of "Accumulated additional deductions" the following definition:-

"Accumulated assumed actuarial deductions", the sum of the amount of the regular deductions and the actuarial assumed interest thereon that would have been credited to a member's account in the annuity savings fund of a system had actuarial assumed interest been credited rather than regular interest.

**SECTION 66.** Said section 1 of said chapter 32, as so appearing, is hereby further amended by inserting after the definition of "Accumulated total deductions" the following definition:-

"Actuarial assumed interest", interest that would be credited to a member's account in the annuity savings fund of a system or to his account in the special fund for military service credit, as provided in subdivision (6) of section 22, except that for any calendar year beginning after December 31, 1983, "actuarial assumed interest" shall be interest that would have been so credited using a rate equal to a system's actuarial assumed rate of return on investments, as determined from time to time by the commission, rather than regular interest.

**SECTION 67.** Said section 1 of said chapter 32, as so appearing, is hereby further amended by striking out the definition of "Actuarial equivalent" and inserting in place thereof the following definition:-

"Actuarial equivalent", any benefit of equal value when computed upon the basis of a mortality table to be selected by the actuary and an interest rate determined by the actuary.

**SECTION 68.** Section 3 of said chapter 32, as so appearing, are hereby amended by striking out, in lines 92, 408, 474 and 475, 535, 579, 590 and 766, the words "accumulated regular deductions" and inserting in place thereof, in each instance, the following words:-  $\frac{1}{2}$  of the accumulated assumed actuarial deductions.

**SECTION 68A.** Said section 3 of said chapter 32, as so appearing, is hereby further amended by striking out, in lines 575 and 576, the words "accumulated regular deduction" and inserting in place thereof the following words:-  $\frac{1}{2}$  of the accumulated assumed actuarial deduction.

**SECTION 69.** Said section 3 of said chapter 32, as so appearing, is hereby further amended by striking out, in lines 768, 781, 790 and 792 and 793, the words "regular interest" and inserting in place thereof, in each instance, the following words:-  $\frac{1}{2}$  of the actuarial assumed interest.

**SECTION 69A.** Section 4 of said chapter 32, as so appearing, is hereby amended by striking out, in lines 451, 456 and 457, and 459, the words "regular interest" and inserting in place thereof, in each instance, the following words:-  $\frac{1}{2}$  of the actuarial assumed interest.

**SECTION 70.** Section 5 of said chapter 32 is hereby amended by adding the following subdivision:-

(5)(i) Notwithstanding this chapter or any other general or special law to the contrary, there shall be an alternative superannuation retirement benefit program for members of the

Massachusetts Port Authority Employees' Retirement System. Participation in the program shall be an alternative retirement option at the time of hiring for all employees hired on or after July 1, 2004. Such members shall make contributions to the Massachusetts Port Authority Employees' Retirement System at the rate of 10 per cent on all regular compensation. Any member of the Massachusetts Port Authority Employees' Retirement System before July 1, 2004 may elect to participate in the alternative superannuation retirement benefit program. The election shall be made on or after July 1, 2004 and before December 31, 2004. Any member of a contributory retirement system who transfers into the Massachusetts Port Authority Employees' Retirement System before July 1, 2004 may elect to participate in the alternative superannuation retirement benefit program; provided, however, that such election shall occur within 180 days of establishing membership in the Massachusetts Port Authority Employees' Retirement System.

(ii) Any member who elects to so participate shall be required to make a minimum of 5 years of contributions at 10 per cent from of regular compensation pursuant to section 22; provided, however, that if the member elects to retire before he has made the 5 years of contributions at 10 per cent, the member shall pay, in 1 sum or in installments as the board may prescribe, an amount equal to that which would have been withheld as regular deductions at the rate of 10 per cent from his regular compensation for such 5-year period based on his last 12 months of regular compensation less contributions made during the member's last 5 years of creditable service; provided, however, that any inactive member who elects to retire before he has made 5 years of contributions at 10 per cent, shall pay, in 1 sum or in installments as the board may prescribe, an amount equal to that which would have been withheld as regular deductions at the rate of 10 per cent from his regular compensation for such 5-year period based on the last 12 months of regular compensation which would have been paid to the inactive member had such member continued in the position from which he is currently inactive less contributions made during the member's last 5 years of creditable service. Any schedule permitting an acceleration of contributions shall be consistent with the plan qualification requirements of the Internal Revenue Code and shall, where necessary to meet the requirements of the Internal Revenue Code, provide for an actuarial reduction of benefits by the actuary appointed by the commission in accordance with section 21. Any member who elects to participate in the alternative superannuation retirement benefit program and pays additional contributions pursuant to this section and does not complete 30 years of creditable service shall, upon termination from membership in or retirement from the system, be reimbursed such additional contributions, plus regular interest, as determined by the Massachusetts Port Authority Employees' Retirement System.

(iii) The normal yearly amount of retirement allowance for an eligible employee who has completed 30 years of creditable service and has paid the full amount of regular deductions on the total amount of regular compensation as determined under paragraph (a) of subdivision (2), shall be based on the average annual rate of regular compensation as determined under said paragraph (a) of said subdivision (2) and shall be computed according

to the table contained in said paragraph (a) of said subdivision (2) titled group 2, based on the age of such member and his number of years and full months of creditable service at the time of his retirement with the percentage of salary average in such computation to be increased by 2 per cent per year for each full year of service in excess of 24 years of creditable service; provided, however, that a member shall have served for at least 25 years as an employee of the Massachusetts Port Authority in order to be eligible to receive the benefit provided under this subdivision. For any member who retires prior to age 55, his age factor shall be determined in accordance with subdivision (1) of section 10. For any member who retires before completing 30 years of service, such member shall receive a retirement allowance equal to the retirement allowance that the member would have been eligible for had he not participated in the alternative superannuation retirement benefit program.

(iv) The total normal yearly amount of the retirement allowance, as determined in accordance with this subdivision, of any employee who retires and receives an additional benefit under the alternative superannuation retirement benefit program shall not exceed  $\frac{4}{5}$  of the average annual rate of his regular compensation received during any period of 3 consecutive years of creditable service for which the rate of compensation was the highest or of the average annual rate of his regular compensation received during the periods, whether or not consecutive, constituting his last 3 years of creditable service preceding retirement, whichever is greater.

**SECTION 71.** Section 7 of said chapter 32, as appearing in the 2002 Official Edition, is hereby amended by striking out, in line 88, the word "eighteen" and inserting in place thereof the following words:- 18 or, if over that age and under age 22, is a full-time student at an accredited educational institution,.

**SECTION 72.** Said section 7 of said chapter 32, as so appearing, is hereby further amended by striking out, in line 97, the word "twenty-one" and inserting in place thereof the following figure:- 22.

**SECTION 73.** Section 9 of said chapter 32, as so appearing, is hereby amended by striking out, in line 55, the word "eighteen" and inserting in place thereof the following:- 18, or are over that age and under age 22 and full-time students at accredited educational institutions,.

**SECTION 74.** Said section 9 of said chapter 32, as so appearing, is hereby further amended by striking out, in line 60, the word "eighteen" and inserting in place thereof the following:- 18, or is over that age and under age 22 and is a full-time student at an accredited educational institution,.

**SECTION 75.** Paragraph (c) of subdivision (2) of said section 9 of said chapter 32, as so appearing, is hereby amended by inserting at the end of said paragraph (c) the following 2 sentences:- The words "full-time student" shall mean a child who is in full-time attendance in an accredited educational institution offering full-time courses of study equivalent to or higher than secondary school study. The words "accredited educational institution" shall mean a school, college or university that is licensed, approved or accredited, as the case may be, in the state in which it is located.

**SECTION 76.** Said section 9 of said chapter 32, as so appearing, is hereby further amended by striking out, in lines 73 and 79, the word "twenty-one" and inserting in each place thereof, in each instance, the following figure:- 22.

**SECTION 77.** The first paragraph of subdivision (1) of section 12 of said chapter 32, as so appearing, is hereby amended by striking out the second sentence and inserting in place thereof the following sentence:- Any member who is retired for disability under section 6, or section 7 or who is retired under subdivision (2) of section 26, may elect to have his allowance paid in accordance with the terms of option (a), option (b) or option (c), provided, however, that, in the event that the surviving eligible beneficiary of a member under said option (c) is eligible for a benefit under section 9, the beneficiary shall elect to receive either a benefit pursuant to said option (c) or a benefit pursuant to said section 9 but in no event shall the beneficiary be eligible for both benefits.

**SECTION 78.** Section 12B of said chapter 32, as so appearing, is hereby amended by striking out, in lines 26 and 27, the word "twenty-one" and inserting in place thereof the following figure:- 22.

**SECTION 79.** Section 15 of said chapter 32, as so appearing, is hereby amended by adding the following subdivision:-

(5) If the attorney general or a district attorney becomes aware of a final conviction of a member of a retirement system under circumstances which may require forfeiture of the member's rights to a pension, retirement allowance or a return of his accumulated total deductions pursuant to this chapter, sections 58 or 59 of chapter 30 or section 25 of chapter 258A, he shall immediately notify the commission of such conviction.

**SECTION 80.** The first paragraph of subdivision (1) of section 22C of said chapter 32 is hereby amended by striking out the third sentence, as so appearing, and inserting in place thereof the following sentence:- The first such funding schedule shall be filed by the commissioner not later than March 1, 1988 and subsequent schedules shall be prepared pursuant to this section relating to the establishment of funding schedules and filed triennially on or before January 15.

**SECTION 81.** Said subdivision (1) of said section 22C of said chapter 32 is hereby further amended by striking out the last paragraph, as amended by section 179 of chapter 26 of the acts of 2003, and inserting in place thereof the following paragraph:-

Notwithstanding any general or special law to the contrary, appropriations or transfers made to the commonwealth's pension liability fund in fiscal years 2005 to 2007, inclusive, shall be made in accordance with the following funding schedule: \$1,216,936,000 in fiscal year 2005, \$1,274,675,000 in fiscal year 2006 and \$1,335,176,000 in fiscal year 2007.

**SECTION 82.** Section 23 of said chapter 32 is hereby amended by adding the following subdivision:

(6) *Confidentiality of certain records.* Any documentary material or data made or received by a member of the PRIM board which consists of trade secrets or commercial or financial information that relates to the investment of public trust or retirement funds, shall

not be disclosed to the public if disclosure is likely to impair the government's ability to obtain such information in the future or is likely to cause substantial harm to the competitive position of the person or entity from whom the information was obtained. The provisions of the open meeting law shall not apply to the PRIM board when it is discussing the information described in this subdivision. This subdivision shall apply to any request for information covered by this subdivision for which no disclosure has been made by the effective date of this subdivision.

**SECTION 83.** Section 26 of said chapter 32 of the General Laws, as appearing in the 2002 Official Edition, is hereby amended by striking out, in line 51, the word "eighteen" and inserting in place thereof the following words:- 18, or, if over that age and under age 22, who is a full-time student at an accredited educational institution,.

**SECTION 84.** Said section 26 of said chapter 32, as so appearing, is hereby further amended by striking out, in line 57, the word "twenty-one" and inserting in place thereof the following figure:- 22.

**SECTION 85.** Section 91A of said chapter 32, as so appearing, is hereby amended by striking out, in lines 14 and 15, the words "cease and shall in no event be reinstated" and inserting in place thereof the following word:- terminate.

**SECTION 86.** Said section 91A of said chapter 32, as so appearing, is hereby further amended by adding the following 3 sentences:- A member shall not be entitled to recover a retirement allowance for any period during which the member's rights in and to his retirement allowance were terminated for failure to submit a statement to the commission under this section. After written notice and opportunity to be heard by the board, termination of a member's rights in and to a retirement allowance for failure to submit a statement to the commission shall be considered by the board to be effective as of the date that such statement was due to be submitted to the board. If a retirement allowance was paid to a member for any period during which such member's rights in and to a retirement allowance were terminated for failure to submit a statement to the commission, such member shall refund the portion of his retirement allowance attributable to such period.

**SECTION 87.** Section 100 of said chapter 32, as so appearing, is hereby amended by striking out, in line 32, the word "twenty-one" and inserting in place thereof the following figure:- 22.

**SECTION 88.** Said chapter 32 is hereby further amended by adding the following section:-

Section 105. (a) Any member retired under section 5 or section 10 shall be eligible to be reinstated in a retirement system established under this chapter, if the retired member repays to the system from which he retired an amount equal to the total amount of any retirement allowance received by the retired member, together with actuarial assumed interest thereon. Such payment shall be made in one lump sum or in installments as the board shall prescribe. Upon such reinstatement, regular deductions shall be made from regular compensation pursuant to paragraphs (b) and (b½) of subdivision (1) of section 22,

and for such purpose, the member's date of entry into service shall be the date such member waived his retirement allowance or the date of reinstatement, whichever occurs earlier. Upon completion of such payment, the member shall be entitled to creditable service for all periods of service for which deductions were made from the member's regular compensation. For purposes of this section, the term "reinstatement service" shall mean a member's period of full-time employment after reinstatement in a retirement system under this section.

(b) If the member shall have less than 5 years reinstatement service, upon retirement, that member shall receive a refund of the payments actually made to the system under this section. The member shall not be entitled to any creditable service for the reinstatement service, nor shall the member be eligible to establish any additional creditable service under any provision for make up payments or other payments.

(c) If the member shall have 5 years or more of reinstatement service, the member shall be entitled to creditable service resulting from his reinstatement service upon the completion of payments required under subsection (a) and payment of regular deductions under section 22 for the reinstatement service. In the event that a retirement allowance becomes effective for the member before the completion of payments under subsection (a), the member shall be entitled to credit for that proportion of reinstatement service as the board shall prescribe, in addition to any credit for service rendered prior to the date of reinstatement, provided that the member would have otherwise been eligible for that prior service.

**SECTION 89.** Section 19 of chapter 32A of the General Laws, as appearing in the 2002 Official Edition, is hereby amended by striking out, in lines 1 to 3, inclusive, the words "The commission is hereby authorized to pay to any active or retired employee of the commonwealth who is insured by the commonwealth as of June first, nineteen hundred and ninety-three" and inserting in place thereof the following words:- Effective July 1 of each year, the commission may pay to any active or retired employee of the commonwealth who has been continuously insured by the commonwealth for the prior 6 months.

**SECTION 90.** Section 11 of chapter 32B of the General Laws, as appearing in the 2002 Official Edition, is hereby amended by inserting after the second paragraph the following 2 paragraphs:-

Notwithstanding any charter or ordinance to the contrary, the appropriate public authority of the cities of Cambridge, Chelsea, Everett, Malden, Medford, Melrose, Quincy, Revere and Somerville may notify the appropriate public authority of the city of Boston of its election to participate in the schedule of benefits made available by the city of Boston for its employees and, subject to the approval of the appropriate public authority of the city of Boston and under such terms and conditions and rules and regulations as may be prescribed from time to time by the appropriate public authority of the city of Boston, the employees of the city so applying shall become insured at the earliest practicable date as participants in a city of Boston group health or life benefit plan. The withdrawal of each individual city's employees from each individual city's group health or life benefit plan and the subsequent inclusion of that city's employees in the city of Boston's group health life benefit plan shall

coincide with annual open enrollment periods. Nothing in this paragraph shall prohibit the appropriate public authority of the city of Boston from prohibiting participation by applying cities in certain benefit programs made available by the city of Boston for its employees. Nothing in this paragraph shall prevent a participating city from withdrawing from participation upon reasonable notice provided by the appropriate public authority of the participating city to the appropriate public authority of the city of Boston. A city granted approval to participate in the city of Boston's schedule of benefits that incurs costs by so joining or exiting including, but not limited to, paying for claims which have been incurred but not yet paid may amortize such costs over a period of not more than 10 years from the date of such approval or exit.

Nothing in this section shall abrogate any provision of chapter 150E or any collective bargaining agreement with respect to health benefits or impact adversely the rights and benefits of public employees pursuant to any collective bargaining agreement.

**SECTION 91.** The third sentence of subsection (a) of section 6A of said chapter 40J, as appearing in section 18 of chapter 141 of the acts of 2003, is hereby amended by inserting after the word "appoint" the following words:- not less than.

**SECTION 92.** The General Laws are hereby amended by inserting after chapter 40Q the following chapter:-

#### **CHAPTER 40R.**

#### **SMART GROWTH ZONING AND HOUSING PRODUCTION**

Section 1. It is the purpose of this chapter to encourage smart growth and increased housing production in Massachusetts. Smart growth is a principle of land development that emphasizes mixing land uses, increases the availability of affordable housing by creating a range of housing opportunities in neighborhoods, takes advantage of compact design, fosters distinctive and attractive communities, preserves open space, farmland, natural beauty and critical environmental areas, strengthens existing communities, provides a variety of transportation choices, makes development decisions predictable, fair and cost effective and encourages community and stakeholder collaboration in development decisions.

Section 2. As used in this chapter, the following words shall have the following meanings:

"Affordable housing", housing affordable to and occupied by individuals and families whose annual income is less than 80 per cent of the areawide median income as determined by the United States Department of Housing and Urban Development. Affordability shall be assured for a period of not less than 30 years through the use of an affordable housing restriction as defined in section 31 of chapter 184.

"Approved smart growth zoning district", a smart growth zoning district that has been adopted by a city or town and approved by the department in accordance with this chapter and the regulations of the department, so as to be eligible for the receipt of financial and other incentives. The department may revoke its approval if the obligations of the city or town are not met.

"Approving authority", a unit of municipal government designated by the city or town to review projects and issue approvals under section 11.

"Comprehensive housing plan", a plan to be prepared by each city or town that provides an assessment of the housing needs within a city or town and describes specific strategies to address these needs, in accordance with regulations of the department.

"Density bonus payment", a one-time payment to a municipality from the trust fund established in section 35BB of chapter 10 for each housing unit of new construction that is created in a smart growth zoning district.

"Department", the department of housing and community development.

"Developable land area", that area within an approved smart growth zoning district that can be feasibly developed into residential or mixed use development determined in accordance with regulations of the department. Developable land area shall not include: (1) land area that is already substantially developed, including existing parks and dedicated, perpetual open space within such substantially developed portion; (2) open space designated by the city or town as provided in section 6; or (3) areas exceeding 1/2 acre of contiguous land that are unsuitable for development because of topographic features or for environmental reasons, such as wetlands.

It shall include the land area occupied by or associated with underutilized residential, commercial, industrial or institutional buildings or uses that have the potential to be recycled or converted into residential or mixed use developments as determined in accordance with regulations of the department.

"Eligible locations", (1) areas near transit stations, including rapid transit, commuter rail and bus and ferry terminals; (2) areas of concentrated development, including town and city centers, other existing commercial districts in cities and towns, and existing rural village districts; or (3) areas that by virtue of their infrastructure, transportation access, existing underutilized facilities, and/or location make highly suitable locations for residential or mixed use smart growth zoning districts.

"Historic district", a district in a city or town characterized by the unique historic quality of the buildings within the district, and in which exterior changes to all buildings and the construction of new buildings are subject to special architectural and design guidelines as voted by the city or town pursuant to state law.

"Letter of eligibility", a letter to a city or town to be issued by the department within 60 days of receiving a complete and approvable application from a city or town for approval of a smart growth zoning district.

"Mixed use development", a development containing a mix of some or all of multi-family residential, single-family residential, commercial, institutional, industrial and other uses, all conceived, planned and integrated to create vibrant, workable, livable and attractive neighborhoods.

"Multi-family housing", apartment or condominium units in buildings which contain or will contain more than 3 such units.

"New construction", construction of new housing units, the substantial rehabilitation of existing buildings or the conversion to residential use of existing buildings to create additional housing units, to the extent those units could not have been constructed or converted under the underlying zoning.

"Open space", shall include, but not be limited to, land to protect existing and future well fields, aquifers, and recharge areas, watershed land, agricultural land, grasslands, fields, forest land, fresh and salt water marshes and other wetlands, ocean, river, stream, lake and pond frontage, beaches, dunes, and other coastal lands, lands to protect scenic vistas, land for wildlife or nature preserve and land for recreational use.

"Project", a proposed residential or mixed-use development within a smart growth zoning district.

"Smart growth zoning district", a zoning district adopted by a city or town under this chapter that is superimposed over 1 or more zoning districts in an eligible location, within which a developer may elect to either develop a project in accordance with requirements of the smart growth zoning district ordinance or by-law, or develop a project in accordance with requirements of the underlying zoning district.

"Smart growth zoning district certificate of compliance", a written certification by the department in accordance with section 7.

"Trust fund", the smart growth housing trust fund established by section 35BB of chapter 10.

Section 3. In its zoning ordinance or by-law, a city or town may adopt a smart growth zoning district in an eligible location and may include adjacent areas that are served by existing infrastructure and utilities, and that have pedestrian access to at least 1 destination of frequent use, such as schools, civic facilities, places of commercial or business use, places of employment, recreation or transit stations. A smart growth zoning district ordinance or by-law, or any amendment to or repeal of such ordinance or by-law, shall be adopted in accordance with section 5 of chapter 40A.

In creating such a district, a city or town may include qualifying areas within development districts approved by the economic assistance coordinating council pursuant to chapter 40Q or any area approved by a city or town as an urban center housing tax-increment financing zone pursuant to section 60 of chapter 40. In smart growth zoning districts, a city or town shall zone for primary residential use as of right and may also permit business, commercial or other uses consistent with primary residential use.

Section 4. (a) Upon application by a city or town, the department shall make a preliminary determination, before the city or town votes on a proposed smart growth zoning ordinance or bylaw, whether the district would be eligible for the financial incentives and the priorities for state expenditures set forth in section 9. The department's determination shall be communicated to the city or town in a letter of eligibility. If the department denies the application, it shall inform the applicant of the deficiencies in its submission. A city or town may re-apply for approval after addressing any deficiencies in a prior application. If the de-

partment does not act upon a complete and approvable application within 60 days of receipt, the application shall be deemed approved.

(b) After issuance of a letter of eligibility and upon application of the town with proof of adoption of the smart growth zoning district ordinance or by-law included in the application for a letter of eligibility, along with any amendment required by the department in the letter of eligibility, the department shall confirm its approval within 30 days of receipt of the application.

Section 5. The chief executive of a city or town desiring to adopt a smart growth zoning district ordinance or by-law shall submit the necessary materials to the department for a preliminary determination of eligibility for approval. The information in the application shall:

(a) identify and describe the boundaries of the proposed smart growth zoning district;

(b) identify and describe the developable land area within the proposed smart growth zoning district;

(c) identify and describe other residential development opportunities for infill housing and the residential re-use of existing buildings and under-utilized buildings within already developed areas;

(d) include a comprehensive housing plan, as set forth in section 8;

(e) include a copy of the proposed smart growth district ordinance or by-law;

(f) by narrative and exhibits, establish the elements set forth in section 6.

Section 6. (a) A proposed smart growth zoning district shall satisfy the following minimum requirements:

1. The proposed district shall be located in an eligible location;

2. The zoning for the proposed district shall provide for residential use to permit a mix of housing such as for families, individuals, persons with special needs or the elderly.

3. Housing density in the proposed district shall be at least 20 units per acre for multi-family housing on the developable land area; 8 units per acre for single-family homes on the developable land area; and 12 units per acre for 2 and 3 family buildings on the developable land area.

4. The zoning ordinance or by-law for each proposed district shall provide that not less than 20 per cent of the residential units constructed in projects of more than 12 units shall be affordable, as defined in section 2, and shall contain mechanisms to ensure that not less than 20 per cent of the total residential units constructed in each district shall be affordable.

5. A proposed district shall permit infill housing on existing vacant lots and shall allow the provision of additional housing units in existing buildings, consistent with neighborhood building and use patterns, building codes and fire and safety codes.

6. A proposed smart growth zoning district shall not be subject to limitation of the issuance of building permits for residential uses or a local moratorium on the issuance of such permits.

7. A proposed district shall not impose restrictions on age or any other occupancy restrictions on the district as a whole. This shall not preclude the development of specific projects that may be exclusively for the elderly, the disabled or for assisted living. Not less than 25 per cent of the housing units in such a project shall be affordable housing.

8. Housing in a smart growth zoning district shall comply with federal, state and local fair housing laws.

9. A proposed district may not exceed 15 per cent of the total land area in the city or town. Upon request, the department may approve a larger land area if such approval serves the goals and objectives of the chapter.

10. The aggregate land area of all approved smart growth zoning districts in the city or town may not exceed 25 per cent of the total land area in the city or town.

11. Housing density in a proposed district shall not over burden infrastructure as it exists or may be practicably upgraded in light of anticipated density and other uses to be retained in the district.

12. A proposed smart growth zoning district ordinance or by-law shall define the manner of review by the approving authority in accordance with section 11 and shall specify the procedure for such review in accordance with regulations of the department.

(b) A city or town may modify or eliminate the dimensional standards contained in the underlying zoning in the smart growth zoning district ordinance or by-law in order to support desired densities, mix of uses and physical character. The standards that are subject to modification or waiver may include, but shall not be limited to, height, setbacks, lot coverage, parking ratios and locations and roadway design standards. Modified requirements may be applied as of right throughout all or a portion of the smart growth zoning district, or on a project specific basis through the smart growth zoning district plan review process as provided in the ordinance or by-law. A city or town may designate certain areas within a smart growth zoning district as dedicated perpetual open space through the use of a conservation restriction as defined in section 31 of chapter 184 or other effective means. The amount of such open space shall not be included as developable land area within the smart growth zoning district. Open space may include an amount of land equal to up to 10 per cent of what would otherwise be the developable land area if the developable land would be less than 50 acres, and 20 per cent of what would otherwise be the developable land area if the developable land area would be 50 acres or more.

(c) The zoning for the proposed district may provide for mixed use development.

(d) A smart growth zoning district may encompass an existing historic district or districts. A city or town, with the approval of the department, may establish a historic district in an approved smart growth zoning district in accordance with chapter 40C, so long as the establishment of the historic district meets requirements for such a historic district and does not render the city or town noncompliant with this chapter, as determined by the department. The historic districts may be coterminous or non-coterminous with the smart growth zoning district. Within any such historic district, the provisions and requirements of the historic district may apply to existing and proposed buildings.

(e) A city or town may require more affordability than required by this chapter, both in the percentage of units that must be affordable, and in the levels of income for which the affordable units must be accessible, provided, however, that affordability thresholds shall not unduly restrict opportunities for development.

(f) With respect to a city or town with a population of fewer than 10,000 persons, as determined by the most recent federal decennial census, for hardship shown, the department may, pursuant to regulations adopted under this chapter, approve zoning for a smart growth zoning district with lower densities than provided in this chapter, if the city or town satisfies the other requirements set forth in this section; provided, however, that such approval shall not be withdrawn solely because, in a future census, the population of the city or town exceeds 10,000.

(g) Any amendment or repeal of the zoning for an approved smart growth zoning district ordinance or by-law shall not be effective without the written approval by the department. Each amendment or repeal shall be submitted to the department with an evaluation of the effect on the city or town's comprehensive housing plan described in section 8. Amendments shall be approved only to the extent that the district remains in compliance with this chapter. If the department does not respond to a complete request for approval of an amendment or repeal within 60 days of receipt, the request shall be deemed approved.

(h) Nothing in this chapter shall affect a city or town's authority to amend its zoning ordinances or by-laws under chapter 40A, so long as the changes do not affect the smart growth zoning district.

Section 7. (a) On or before October 1 of each year after the year of approval of a district by the department, the department shall send a smart growth zoning district certificate of compliance to each city or town with an approved district. In order to receive such a certificate, the city or town shall verify within the time specified by the department:

1. that the city or town has adopted an approved a smart growth zoning district;
2. that the certification has not been revoked by the department;
3. that the district is being developed in a manner that reasonably complies with the minimum requirements set forth in section 6 for housing density and affordability;
4. that the approving authority has not unreasonably denied plans for projects, or has only denied plans for projects in a manner consistent with its smart growth zoning district ordinance or by-law, the city or town's comprehensive housing plan and this chapter.

(b) If the department is unable to certify compliance, the department shall hold a public hearing subject to chapter 30A. If the department concludes that the city or town is in material noncompliance with the requirements set forth in this section, the department may revoke certification. A revocation of certification shall be recorded with the registry of deeds or land court registry district for the county or district within which the city or town is located, indexed in the grantor index under the name of the city or town. Any revocation of certification or other sanctions imposed by the department shall not affect the validity of the smart growth zoning ordinance or by-law, or the application of such ordinance or by-law to land, development or proposed development within the smart growth zoning district.

Section 8. A city or town shall prepare a comprehensive housing plan to be submitted for review and approval to the department before or concurrently with the city or town's application for a letter of eligibility. The plan shall include an estimate of the projected number of units of new construction that could be built in the proposed smart growth zoning district. If a city or town has already completed a comprehensive housing plan, the city or town shall submit with its application to the department a description of how the proposed smart growth zoning district relates to and will further the goals of its comprehensive housing plan, as well as an estimate of the projected number of units of new construction that could be build within the district.

Section 9. Each city or town with an approved smart growth zoning district shall be entitled to payments as described below.

(a) Within 10 days of confirmation of approval by the department of a smart growth zoning district, the commonwealth shall pay from the trust fund a zoning incentive payment, according to the following schedule:

Projected Units of New Construction Payment

Up to 20	\$10,000
21 to 100	\$75,000
101 to 200	\$200,000
201 to 500	\$350,000
501 or more	\$600,000

The projected number of units shall be based upon the zoning adopted in the smart growth zoning district and consistent with the city or town's comprehensive housing plan.

(b) The commonwealth shall pay from the trust fund a one-time density bonus payment to each city or town with an approved smart growth zoning district. This payment shall be \$3,000 for each housing unit of new construction that is created in the smart growth zoning district. The amount due shall be paid on a unit-by-unit basis, within 10 days of submission by a city or town of proof of issuance of a building permit for a particular housing unit or units within the district.

(c) The executive office of environmental affairs, the executive office of transportation, the department of housing and community development and the secretary of administration and finance shall, when awarding discretionary funds, use a methodology of awarding such funds that favors cities or towns with approved smart growth zoning districts or other approved zoning policies or initiatives that encourage increased affordable housing production in the commonwealth including, but not limited to, inclusionary zoning.

Section 10. A city or town may adopt, in accordance with the regulations of the department, design standards applicable to projects undergoing review by the approving authority, to ensure that the physical character of development within the smart growth zoning district is complementary to adjacent buildings and structures and is consistent with the comprehensive housing plan and any applicable master plan or plans for the city or town. Such standards may address the scale and proportions of buildings, the alignment, width and

grade of streets and sidewalks, the type and location of infrastructure, the location of building and garage entrances, off-street parking, the protection of significant natural site features, the location and design of on-site open spaces, exterior signs and buffering in relation to adjacent properties. The standards shall provide for high-density quality development consistent with the character of building types, streetscapes and other city or town features traditionally found in densely settled areas of the city or town or in the region of the city or town.

A design standard shall not be adopted if it will add unreasonable costs to residential or mixed-use developments. A design standard shall not unreasonably impair the economic feasibility of proposed projects. The department may disapprove a request for the determination of eligibility for a smart growth zoning district on account of a design standard adding such unreasonable costs or unreasonably impairing such feasibility.

Section 11. (a) A city or town may incorporate provisions within the smart growth district zoning ordinance or by-law that prescribe contents of an application for approval of a project. The ordinance or by-law may require the applicant to pay for reasonable consulting fees to provide peer review of the applications for the benefit of the approving authority. Such fees shall be held by the municipality in a separate account and used only for expenses associated with the review of the development application by outside consultants and any surplus remaining after the completion of such review, including any interest accrued, shall be returned to the applicant forthwith. The smart growth zoning district ordinance or by-law may provide for the referral of the plan to municipal officers, agencies or boards other than the approving authority for comment. Any such board, agency or officer shall provide any comments within 60 days of its receipt of a copy of the plan and application for approval.

(b) An application to an approving authority for approval under a smart growth zoning ordinance or by-law shall be governed by the applicable zoning provisions in effect at the time of the submission, while the plan is being processed, during the pendency of any appeal and for 3 years after approval. If an application is denied, the zoning provisions in effect at the time of the application shall continue in effect with respect to any further application filed within 2 years after the date of the denial except as the applicant may otherwise choose.

(c) An application for approval under this section shall be filed by the applicant with the city or town clerk and a copy of the application including the date of filing certified by the town clerk shall be filed forthwith with the approving authority. The approving authority shall hold a public hearing for which notice has been given as provided in section 11 of chapter 40A. The decision of the approving authority shall be made, and a written notice of the decision filed with the city or town clerk, within 120 days of the receipt of the application by the city or town clerk. The required time limits for such action may be extended by written agreement between the applicant and the approving authority, with a copy of such agreement being filed in the office of the city or town clerk. Failure of the approving authority to take action within said 120 days or extended time, if applicable, shall be deemed

to be an approval of the plan. The applicant who seeks approval of a plan by reason of the failure of the approving authority to act within such time prescribed, shall notify the city or town clerk, in writing within 14 days from the expiration of said 120 days or extended time, if applicable, of such approval and that notice has been sent by the applicant to parties in interest. The applicant shall send such notice to parties in interest by mail and each such notice shall specify that appeals, if any, shall be made pursuant to this section and shall be filed within 20 days after the date the city or town clerk received such written notice from the applicant that the approving authority failed to act within the time prescribed.

(d) The approving authority shall issue to the applicant a copy of its decision containing the name and address of the owner, identifying the land affected, and the plans that were the subject of the decision, and certifying that a copy of the decision has been filed with the city or town clerk and that all plans referred to in the decision are on file with the approving authority. If 20 days have elapsed after the decision has been filed in the office of the city or town clerk without an appeal having been filed or if such appeal, having been filed, is dismissed or denied, the city or town clerk shall so certify on a copy of the decision. If the plan is approved by reason of the failure of the approving authority to timely act, the clerk shall make such certification on a copy of the application. A copy of the decision or application bearing such certification shall be recorded in the registry of deeds for the county and district in which the land is located and indexed in the grantor index under the name of the owner of record or recorded and noted on the owner's certificate of title. The fee for recording or registering shall be paid by the owner or applicant.

(e) The project shall be approved by the approving authority subject only to those conditions that are necessary: (1) to ensure substantial compliance of the proposed project with the requirements of the smart growth zoning district ordinance or by-law; or (2) to mitigate any extraordinary adverse impacts of the project on nearby properties. An application may be denied only on the grounds that: (i) the project does not meet the conditions and requirements set forth in the smart growth zoning district ordinance or by-law; (ii) the applicant failed to submit information and fees required by the ordinance or by-law and necessary for an adequate and timely review of the design of the project or potential project impacts; or (iii) it is not possible to adequately mitigate significant adverse project impacts on nearby properties by means of suitable conditions.

(f) Any court authorized to hear appeals under section 17 of chapter 40A shall be authorized to hear an appeal from a decision under this section by a party who is aggrieved by such decision. Such appeal may be brought within 20 days after the decision has been filed in the office of the city or town clerk. Notice of the appeal, with a copy of the complaint shall be given to such city or town clerk so as to be received within such 20 days. Review shall be based on the record of information and plans presented to the approving authority. To avoid delay in the proceedings, instead of the usual service of process, the plaintiff shall within 14 days after the filing of the complaint, send written notice thereof, with a copy of the complaint, by delivery or certified mail to all defendants, including the members of the approving authority, and shall within 21 days after the entry of the complaint

file with the clerk of the court an affidavit that such notice has been given. If no such affidavit is filed within such time, the complaint shall be dismissed.

(g) A complaint by a plaintiff challenging the approval of a project under this section shall allege the specific reasons why the project fails to satisfy the requirements of this chapter or other applicable law and allege specific facts establishing how the plaintiff is aggrieved by such decision. The approving authority's decision in such a case shall be affirmed unless the court concludes the approving authority abused its discretion under subsection (e) in approving the project. The applicant and all members of the approving authority shall be named as defendant parties.

(h) A plaintiff seeking to reverse approval of a project under this section shall post a bond in an amount to be set by the court that is sufficient to cover twice the estimated: (i) annual carrying costs of the property owner, or a person or entity carrying such costs on behalf of the owner for the property, as may be established by affidavit; plus (ii) an amount sufficient to cover the defendant's attorneys fees, all of which shall be computed over the estimated period of time during which the appeal is expected to delay the start of construction. The bond shall be forfeited to the property owner in an amount sufficient to cover the property owner's carrying costs and legal fees less any net income received by the plaintiff from the property during the pendency of the court case in the event a plaintiff does not substantially prevail on its appeal.

(i) An applicant for plan approval who appeals from a project denial or conditional approval shall identify in its complaint the specific reasons why the approving authority's decision fails to satisfy requirements of this chapter or other applicable law. The approving authority shall have the burden of justifying its decision by substantial evidence in the record.

(j) The land court department, the superior court department and the housing court department shall have jurisdiction over an appeal under this section and shall give priority to such an appeal.

(k) The first paragraph of section 16 of chapter 40A shall not apply to applications for projects within a smart growth zoning district.

(l) A project approval shall remain valid and shall run with the land indefinitely provided that construction has commenced within 2 years after the decision is issued, which time shall be extended by the time required to adjudicate any appeal from such approval and which time shall also be extended if the project proponent is actively pursuing other required permits for the project or there is other good cause for the failure to commence construction, or as may be provided in an approval for a multi-phase project.

Section 12. The department shall be responsible for the administration, review, and reporting on the smart growth zoning district program as provided in this chapter. The department shall undertake or cause to be undertaken an annual review and the preparation of a report on the program set forth in this chapter and may require data to be provided by cities and towns with smart growth zoning districts. The report shall be prepared on the basis of such data and shall be made available to the general public and submitted to the general

court annually not later than November 15 of each year, and shall cover the status of the program through the end of the prior fiscal year. The report shall identify and describe the status of cities and towns that are actively seeking letters of eligibility. It shall identify approved smart growth zoning districts and the amounts and anticipated timing of one-time density bonus payments during the prior and current fiscal year. It shall summarize the amount of land areas zoned for particular types of projects in both proposed and approved districts, the number of projects being reviewed by cities and towns under section 11, including the number and type of proposed residential units, the number of building permits issued, the number of completed housing units and their type, and it shall set out the one-time density bonus payments made to each city or town. For the then current and the immediately succeeding fiscal years it shall make estimates for the: (i) number and size of proposed new districts; (ii) the potential number of residential units to be allowed in new districts; and (iii) anticipated construction activity.

Section 13. A city or town may apply to the department for approval of an existing zoning district as a smart growth zoning district if it meets the requirements for such a district, including the affordability requirements and the density requirements. The application shall be the same as for a new smart growth zoning district. Upon approval, a city or town with an existing district shall become entitled to the one-time density bonus payments upon the construction of new units within the smart growth zoning district and preference of capital expenditure funds, as provided in section 9, from the date of approval, but shall not be eligible for zoning incentive payments.

Section 14. The department shall require the cities and towns, if within 3 years no construction has been started within the smart growth zoning district, to repay to the department all monies paid to the city or town under this chapter for said smart growth zone. The 3 years shall commence on the date of the payment of the zoning incentive payment for said smart growth zoning district. All monies returned to the department under this section shall be returned to the trust fund.

**SECTION 93.** Section 108L of chapter 41 of the General Laws, as appearing in the 2002 Official Edition, is hereby amended by adding the following 10 paragraphs:-

Only graduates of: (1) criminal justice or law enforcement programs that meet or exceed the guidelines for criminal justice and law enforcement programs, as set forth by the board of higher education and implemented on January 1, 2004; or (2) law schools that are New England Association of School and Colleges accredited or board approved and who have passed the Massachusetts bar examination, shall be eligible for the police career incentive pay program.

The president of a New England Association of Schools and Colleges accredited institution or board of higher education approved institution shall submit a letter of intent to seek approval of its criminal justice degree program to the chancellor of higher education by May 1 of the year in which the institution intends to submit an application. The letter of intent shall include a statement of commitment to implement Standard D, Admission and Articulation, for all students enrolling in a criminal justice or law enforcement program after

May 1 of the calendar year in which the letter is submitted. All programs shall meet the guidelines for criminal justice and law enforcement programs as approved by the board of higher education.

An application for approval as a police career incentive pay program participating institution shall be developed by the board of higher education and shall include the following: (1) a profile of the program; (2) demonstration of the program's fulfillment of the standards as stated in the guidelines; and (3) an application fee to cover the evaluation costs of the review process. Applications shall be submitted according to the timetable established by the board of higher education.

Each institution shall pay an evaluation fee to the board of higher education's police career incentive pay program quality assurance trust fund to cover the costs of review of its program. In addition to the fee, the institution shall pay for travel, room, board and other normal expenses of the external evaluation committee. If the committee requires subsequent visits, the board of higher education shall charge for further expenses at its discretion. Evaluation fees shall be determined by the total number of degrees awarded to all students enrolled in the criminal justice and law enforcement program being reviewed based on an average of the 3 years immediately prior to the submission of the application.

Fees shall be determined by the total number of degrees awarded to all students in the criminal justice and law enforcement program being reviewed in the following manner: \$1,000 for institutions awarding fewer than 20 criminal justice or law enforcement degrees per year; \$1,500 for institutions awarding between 20 and 50 criminal justice or law enforcement degrees per year; \$2,000 for institutions awarding between 51 and 100 criminal justice or law enforcement degrees per year; \$2,500 for institutions awarding between 101 and 150 criminal justice or law enforcement degrees per year; \$3,000 for institutions awarding between 151 and 200 criminal justice or law enforcement degrees per year; and \$3,500 for institutions awarding over 200 criminal justice or law enforcement degrees per year.

Once an application is submitted, the following timetable shall apply: (1) within 30 business days, board staff shall determine whether or not the application is complete and notify the institution; (2) within 30 business days of notification to the institution that the application is complete, an external evaluation committee shall be appointed in accordance with the guidelines; (3) within 30 business days of completing the evaluation of a program's application, the external evaluation committee shall submit a report to board staff; (4) within 30 business days of receipt of the report, board staff shall send the committee's report to the institution with a response required; (5) the institution may request an extension, if needed, to respond adequately to the committee's report; (6) within 30 business days of receiving the institution's response, the staff of the board shall evaluate materials submitted by the institution, the committee's written report, the written response from the institution, and any additional information submitted by the institution, including a request for a delay; (7) based on its review, board staff shall make a recommendation to the board for deferral, approval,

or disapproval, and the board shall take action by formal vote; and (8) if the board's determination is to disapprove the institution's request, the board shall provide a statement of reasons for the decision.

Programs approved by the board of higher education shall be included on an approved program list for 5 years. The institutions shall annually submit a status report on its approved programs to the board. Programs receiving deferrals from the board shall receive specific conditions that must be met and a timetable for coming into compliance. Programs not approved by the board may not re-apply for at least 1 calendar year following the board's determination.

When, in the judgment of the board staff, a review or inspection of a degree program is necessary, the board, in consultation with the applicant institution, shall select and appoint an external evaluation committee to serve in the following manner: (1) the committee shall review the materials submitted by the program, visit the institution, and submit a report to the board containing recommendations regarding the programs request for approval; (2) the number of reviewers on the committee shall be determined by size, number and level of the program being reviewed and shall, under no circumstances have fewer than 2 academicians; (3) to be eligible to serve as an evaluator, individuals shall have earned at least a master's degree in criminal justice or a closely related discipline and academic team members shall have professional experience in college-level teaching, research, administration or other relevant activities with institutions of higher education, and practitioners shall have at least 5 years of full-time supervisory or administrative experience as a criminal justice practitioner, as well as specific knowledge of or experience in criminal justice education; (4) no person shall serve as an evaluator who is employed by an institution considered by the board to be in direct competition with the institution under review; (5) no person shall serve as an evaluator who has a present or recent official or unofficial connection with the institution under review, or who the board has reason to believe has independent or pecuniary interest in the outcome of the board's final action; provided, however, that external evaluators shall have a disinterested professional commitment to the task of rendering objective finding and recommendations based upon empirical evidence and informed judgments; (6) each committee shall have a chairperson who shall be responsible for providing leadership to the committee, for being the committee's liaison with the institution and for preparing with other committee members, the committee's report; (7) the committee shall submit a written report, including recommendations to the board, and board staff shall forward a copy of the report to the institution to correct factual errors and respond to the content and recommendations within the report; (8) evaluators shall be given an honorarium by the board of higher education and all expenses shall be paid by the institution under review; and (9) evaluators shall be provided an orientation before conducting reviews.

Annually, each approved institution shall submit 2 copies of a report to the board reviewing the status of the institution's criminal justice and law enforcement program. This report shall certify that the criminal justice program is being maintained and operated within

the provisions and guidelines set forth by the board of higher education guidelines for criminal justice and law enforcement programs. If at any time, in the judgment of the board staff, there is a reasonable probability of non-compliance with the board's guidelines by a particular institution, the board may review the institution to determine if continued approval of the institution is proper.

An institution that is in objection of an adverse decision may appeal the board's determination. The appeal shall be heard by a review panel appointed by the board of higher education and the findings and recommendations of the panel shall be received by the board whose decision shall be final.

**SECTION 94.** The General Laws are hereby amended by inserting after chapter 43C the following chapter:-

**CHAPTER 43D.**  
**Expedited Permitting.**

Section 1. This chapter shall apply in a city or town upon its acceptance under section 4 of chapter 4. Sections 2 to 5, inclusive, shall be adopted together, but collectively may be adopted without section 6. If section 6 is adopted, then sections 2 to 5, inclusive, shall also be adopted. The adoption of any portion of this chapter shall be considered to be an amendment to any contrary laws, local charters or laws having the force of charters.

Section 1A. The secretary of administration and finance shall collaborate with the commissioner of revenue and the state treasurer to develop incentives that expedite local permitting and zoning consistent with this chapter. Said incentives may include, but shall not be limited to, use of payments pursuant to section 25A of chapter 58 to cities and towns, or other forms of fiscal incentives. Said secretary shall report to the house and senate committees on ways and means not later than November 1, 2004, on any such recommendations necessary to implement the incentives proposed to effectuate such expedited permitting, including any related legislation.

Section 2. The following words shall have the following meanings unless the context clearly requires otherwise:

"Issuing authority", a local board, commission, department or other municipal entity that is responsible for issuing permits, granting approvals or otherwise involved in land use development.

"Municipality", the locality acting through the relevant issuing authority as it pertains to actions required or allowed by this chapter.

"Office", the municipal office of permit coordination provided for in subsection (b) of section 3.

"Permit", a permit, formal determination, order of conditions, license, certificate, authorization, registration, plan approval, zoning relief or other approval or determination with respect to the use or development of land or structures required by any issuing authority including, but not limited to, those under statutory authorities contained in chapter 40A, sections 81A to 81J, inclusive, and sections 81X to 81GG, inclusive, of chapter 41, sections 40

and 40A of chapter 131, sections 26 to 32, inclusive, of chapter 111, chapter 40C, sections 13 and 14 of chapter 148, chapter 772 of the acts of 1975, or otherwise under state law or local by-law or ordinance adopted under home rule authority, and all associated regulations, bylaws and rules, but not including building permits or approvals pursuant to sections 81O to 81W, inclusive, of chapter 41. "Permit" shall not include the licensing of an individual to engage in a profession or the decision of an agency to dispose of property under its management or control. "Permit" shall also not include predevelopment reviews conducted by the municipal office of permit coordination or a technical review team. Permits and approvals shall not include permits and approvals granted by the Massachusetts Water Resources Authority under its authority or under authority delegated from an agency otherwise covered by this chapter. Permits and approval actions taken pursuant to a federal delegation shall be excepted only to the extent that the terms of such delegation are inconsistent with this chapter.

"Technical review team", an informal working group consisting of representatives of the various issuing authorities designated by the head of their issuing authority, to review requests submitted under the procedures established pursuant to sections 3 to 6, inclusive. The technical review team shall not include members of the zoning board of appeals.

Section 3. (a) The municipality shall, within 180 days of acceptance of any of the provisions of sections 2 to 6, inclusive, amend where necessary, rules and regulations on permit issuance to conform with those sections and may adopt guidelines consistent with this chapter. The municipality shall collect and ensure the availability of, and the issuing authorities shall memorialize and ensure the availability of, all governing statutes, local ordinances, by-laws, regulations, procedures and protocols pertaining to each permit. The municipality is encouraged to compile a comprehensive permitting process guidebook and to provide other informational assistance relative to permitting through a single point of contact established pursuant to subsection (b).

(b) A city or town shall establish or designate an existing office or staff member to serve as a single point of contact for the purposes of coordinating and facilitating the land use permitting process. The office or staff member so designated shall be the municipal office of permit coordination, hereinafter referred to as the office. In fulfilling the functions established in this chapter, the office shall consult with the authorities having substantive jurisdiction over the issuance of permits. To the greatest extent possible, the office shall fulfill the procedural responsibilities of the municipality.

(c) The municipality, to the greatest extent possible, shall establish a procedure for coordinated and concurrent review of all permit reviews required for a single project and, where feasible, shall coordinate municipal review with state review. Nothing in sections 2 to 6, inclusive, shall be construed to alter the substantive jurisdictional authority of issuing authorities.

(d) The municipality, through the office, shall establish a procedure whereby the municipality shall identify, based upon submission by the applicant of a form provided by the municipality all permits, reviews and predevelopment reviews required for a project; all

required scoping sessions, public comment periods and public hearings; and all additional specific applications and supplemental information required for review, including, where applicable, the identification of potential conflicts of jurisdiction or substantive standards with abutting municipalities. The municipality shall notify the applicant of such requirements in writing within 20 business days from receipt of the completed form. The municipality may provide for pre-application conferences to facilitate this process.

The office and the applicant may publish an early notice in a local paper, and a statewide paper or the Environmental Monitor, with a description of the project and scope of review preliminarily suggested by the office. The early notice shall be in addition to any required notice for required public hearings and may, at the municipality's option, direct inquiries to either the office or the applicant.

The failure of a municipality to notify an applicant of a requirement of a public hearing or comment period shall not waive the legal requirement for any such requirement. If, at any time, an issuing authority determines that a permit or other predevelopment review is required which it did not previously identify, it shall immediately notify the applicant by certified mail and shall, where public notice and comment or hearing are not required, complete action on the application filed for the previously unidentified permit within 35 days of receipt of the completed application or not later than the latest required decision date for a pending permit, whichever is later. Where public notice and comment or hearing are required for the previously unidentified permit, the required action date shall be not later than 35 days from the later of the close of the hearing or comment period, which shall be scheduled to commence as quickly as publication allows.

(e) The municipality shall establish a procedure, following the notification of the required submissions for review as set forth in subsection (d), for determining the completeness of the submission by the applicant of all materials required for the review of the project, which shall be not later than 10 business days after receipt of the application materials. If the municipality fails to send notification that an application is not complete within that time period, the application shall be considered complete. If the municipality determines the application is not complete, the written notice shall include a concise statement regarding the reasons why the application is incomplete. The resubmission of the application or the submission of such additional information required by the municipality shall commence a new period for review of the additional information for purposes of determining completeness. A finding that the application is complete shall not prevent the municipality from requesting additional information during the course of project review.

(f) The municipality shall, within 180 days after acceptance of any provision of sections 2 to 6, inclusive, establish time periods within which all permit reviews shall be conducted and completed. The timelines shall begin to run upon issuance of the notice that the application materials are complete pursuant to subsection (e). The timeline shall not exceed 90 days for reviews which do not require public hearings and 120 days for reviews which require a public hearing. The procedure shall provide for the consolidation of public

hearings and public notices. Public notices shall appear in a local newspaper and the Environmental Monitor at least twice before the hearing date. At the written request of 10 citizens, an additional public hearing shall be held, if the 120-day time period for review, established under this section, has not been exceeded. Where appropriate, the municipality may establish general permits and permits by rule which shall consist of standards of performance specified by the issuing authority and shall be authorized after a written filing by the applicant.

(g)(1) If the issuing authority fails to act within the time period established by the municipality pursuant to subsection (f), the relief requested shall be considered granted by operation of law. In that event, within 14 days from the date of expiration of the time period, the applicant shall file an affidavit with the city or town clerk, attaching the application, setting forth the facts giving rise to the automatic approval and stating that notice of the automatic grant has been mailed, by certified mail, to all parties to the proceedings and all person entitled to such notice of hearing in connection with the application. Appeals from the automatic grant, if any, shall be filed by an aggrieved person within 20 days after the date the city or town clerk received the affidavit in accordance with section 17 of chapter 40A. A plaintiff shall provide written notice of the action with a copy of the complaint to all parties on the administrative record within 10 business days after filing the complaint and an affidavit of the notice shall be filed with the court. If the affidavit is not filed within that time, the complaint shall be dismissed. The court shall advance any action so that it may be heard and determined as soon as possible. The court shall hear all evidence and determine the facts, and upon the facts determined, shall issue a decree as justice and equity may require.

(2) An automatic grant of approval shall not occur where: (i) the city or town has made a timely determination that the application is not complete in accordance with its regulations; (ii) the final application contained false or misleading information; or (iii) substantial changes to the project which affect the information required to process the permit application have occurred since the filing of the application.

(3) A time period specified in this section may be waived or extended for good cause by written request of the applicant with the consent of the municipality or by the written request of the head of the issuing authority with the consent of the applicant. A time period specified by this section shall be extended when the issuing authority determines in writing either: (i) that action by another federal, state or municipal government agency is required before the issuing authority may act; (ii) that judicial proceedings affect the ability of the issuing authority or applicant to proceed with the application; or (iii) that enforcement proceedings which could result in revocation of an existing permit for that facility or activity and denial of the application have been commenced. When the reason for the extension is no longer applicable, the issuing authority shall immediately notify the applicant, and shall complete its decision within the time periods specified in this section, beginning the day after the notice is issued. Any time period specified in this section may be extended by the head of the issuing authority where significant public comment has been received which would,

on its face, appear to constitute grounds for the issuing authority to deny the permit or significantly modify the permit. An extension of a time period shall be filed by the issuing authority with the city or town clerk before the end of the otherwise applicable time period.

(4) An issuing authority may not use lack of time for review as a basis for denial of a permit if the applicant has provided a complete application in accordance with sections 2 to 5, inclusive and section 6, where applicable.

(h) The municipality shall establish an informal procedure to allow permit applicants to obtain advisory review by a technical review team of any issue of law, policy, procedure, or classification that the applicant claims is in dispute between the applicant and the issuing authority which has affected or will affect the ability of the applicant to obtain timely review of the permit application. Procedures shall provide for filing by the applicant of a request for review, representation by the permit issuing authority on the technical review team, and a period not to exceed 30 days for issuance of a decision. Invocation of this procedure shall toll the review time periods. An advisory determination or ruling made pursuant to a procedure established in this section shall not constitute a decision or final action and shall not be subject to any right of administrative or judicial review.

In addition to any fees that may be assessed by an issuing authority pursuant to sections 53 and 53G of said chapter 44, the office may establish an additional and separate fee for the carrying out of its duties under any provision of sections 2 to 7, inclusive, and may deposit the fees in a special account. The account shall be established by the municipal treasurer in the municipal treasury and shall be kept separate and apart from other monies. The special account, including accrued interest, if any, shall be expended at the direction of the office or another office designated to serve as that office, without further appropriation; provided, however, that the funds shall be expended by it only in connection with carrying out its responsibilities under any provision of sections 2 to 7, inclusive. At the sole discretion of the office, an annual surplus in fees may be used for the development of the regional plans, subject to matching funds by the municipal legislative body.

Section 4. An administrative appeal from a permitting decision shall be filed within 21 days after the issuing authority renders a decision. Nothing in this section shall be construed to create rights of appeal where a statutory form of administrative review or appeal is not otherwise provided.

Section 5. (a) Permits shall transfer automatically to successors in title, except for permits where financial ability to meet permit requirements, posting of a bond or the qualifications of an applicant are a condition or requirement for obtaining the permit, and the permit expressly requires approval of the issuing authority before transfer. Within 180 days of the acceptance of sections 2 to 6, inclusive, the municipality shall publish in a local newspaper and in a statewide newspaper or the Environmental Monitor a list of all permits which require the approval of the authority before transfer.

(b) Issuing authorities having substantive jurisdiction over permit issuance, in consultation with the office, may develop procedures for simplified permit renewals and annual reporting requirements. If the procedures are not developed, renewals of permits shall

be governed by the same procedures and timelines as specified in sections 2 to 5, inclusive, and section 6, where applicable.

(c) Permit modification requests shall be reviewed by an issuing authority within time frames set forth in this paragraph. An issuing authority shall inform an applicant within 15 business days of receipt of a request whether the modification is approved, denied, determined to be substantial or additional information is required by the issuing authority in order to issue a decision. If additional information is required, the issuing authority shall inform an applicant within 15 business days after receipt of the required additional information whether the modification is approved or denied or that additional information is still required by the issuing authority in order to render a decision. In cases in which the issuing authority determines that a requested modification is substantial, the original time frames for permit categories as set forth in subsection (f) of section 3 shall apply.

(d) Permits issued pursuant to sections 2 to 5, inclusive, shall expire 2 years from the date of the expiration of the applicable appeal period unless exercised sooner. Where permits cover multiple buildings, commencement and continuation of construction of 1 building shall preserve the permit validity. Nothing in this section shall limit the effectiveness of section 6 of chapter 40A.

Section 6. (a) A municipality which also accepts this section shall adopt procedures in this section for the designation and development of priority development sites.

(b) For the purposes of this section, the following words shall have the following meanings unless the context clearly requires otherwise:

"Priority development site", a privately or publicly-owned, municipally-designated property which, at the request of the owner, is entitled to proceed with state and local permitting processes based upon a master plan of building sizes, categories of use and other relevant land use issues, including brownfields. There may be several different parcels or projects within a single priority development site.

"Priority master plan", a master plan for a priority development site which contains all information necessary to conduct a review of a priority development site for the purposes of state and municipal land use permits and reviews.

"Priority proposal", a document containing all information related to an actual proposed development project within a priority development site.

(c) To be eligible for designation as a priority development site, the property shall: (1) be commercially or industrially zoned; and (2) be eligible under applicable zoning provisions, including special permits or other discretionary permits, for the construction of a building of 90,000 square feet of gross floor area or more. Municipalities, with advice and consent of the Massachusetts office of business development, may designate a property which does not meet these criteria if they determine that a proposed property presents an important opportunity for a commercial or industrial use.

(d) To have a property designated as a priority development site, the owner of the property shall file a request with the office. The request shall include a description of the property and buildings and evidence of compliance with the eligibility criteria in this section.

The municipality shall issue a decision within 20 days. Each municipality shall establish a procedure for reviewing requests and making designations and shall weight favorably plans which are consistent with existing or proposed area growth management and planning documents.

(e) If designated, the owner shall consult with the Massachusetts office of business development and the executive office of environmental affairs, which shall designate a high-level representative to coordinate this process, to develop the scope of information required for a priority profile.

(f) Any required reviews established under sections 61 to 62H, inclusive, of chapter 30 or sections 26 to 27C, inclusive, of chapter 9 shall be conducted concurrently and shall conclude within 120 days of a state determination of completeness of required review materials, as shall be established by the executive office of environmental affairs. The secretary of environmental affairs and the state secretary shall establish time frames for all required filings and additional filings by the applicant in order to comply with this subsection. In the event an applicant fails to comply with all relevant timeframes, the time shall be tolled until the applicant files the required documents.

(g) Notwithstanding any law to the contrary, a public notice or hearing necessitated by a proposed project on a priority development site shall be consolidated into a single hearing by the office and the commonwealth.

(h) A developer of a project within a priority development site shall file a priority proposal.

(i) The municipality and the executive office of environmental affairs shall prepare a form for priority proposals for priority development sites and shall designate 1 representative to review priority proposals. Municipal and state agencies shall render permit decisions within 60 days of issuance of receipt of a completed priority proposal which falls within the priority profile or which falls within 10 per cent differential of the priority profile, and within 90 days for all other priority proposals.

(j) Permits and approvals issued relative to a priority development site shall expire 5 years from the date of issuance unless exercised sooner. A project or parcel for which a priority proposal has been filed within the 5-year period shall be eligible for this process. Changes in the law subsequent to the issuance of permits based upon the priority proposal shall not invalidate the permits or review certificates.

(k) A priority development site shall also be eligible for the following benefits:

(1) priority consideration for Community Development Action Grants and Public Works Economic Development Grants;

(2) accelerated consideration for other state resources such as quasi-public financing and training programs;

(3) brownfields remediation assistance; and

(4) enhanced marketing of the site by the Massachusetts office of business development.

(l) This section shall not apply where the municipality and commonwealth determine that the priority master plan or any required submissions have omitted requested or relevant information or contained false or misleading information.

Section 7. If any part of sections 1 to 6, inclusive, shall be found by a court of law to be unconstitutional, invalid or in conflict with federal or state requirements which are a condition precedent to the allocation of federal or state funds to a municipality or with the delegation of a federal or state permitting program, the remainder of these sections shall not be affected thereby.

**SECTION 95.** Section 1 of chapter 44 of the General Laws, as appearing in the 2002 Official Edition, is hereby amended by inserting, after the definition of "Majority vote", the following definition:-

"Municipal finance oversight board", a board composed of the attorney general, the state treasurer, the state auditor, and the director of accounts in the department of revenue, or their designees.

**SECTION 96.** Clause (8) of section 8 of said chapter 44 is hereby amended by striking out the words "a board composed of the attorney general, the state treasurer, the state auditors, and the director of accounts, or their designees", inserted by section 25 of chapter 46 of the acts of 2003, and inserting in place thereof the following words:- the municipal finance oversight board.

**SECTION 97.** Clause (8A) of said section 8 of said chapter 44 is hereby amended by striking out the words "a board composed of the attorney general, the state treasurer, the state auditor, and the director of accounts, or their designees", inserted by section 26 of said chapter 46, and inserting in place thereof the following words:- the municipal finance oversight board.

**SECTION 98.** Said section 8 of said chapter 44 of the General Laws is hereby amended by striking out clause (15), inserted by section 27 of said chapter 46, and inserting in place thereof the following clause:-

(15) For the construction of sewers, sewerage systems and sewage treatment and disposal facilities, or for the lump sum payment of the cost of tie-in to such services in a contiguous city or town, for a period not exceeding 30 years; provided, however, that either (i) the city or town has an enterprise or special revenue fund for sewer services and that the accountant or auditor or other officer having similar duties in the city or town shall have certified to the treasurer that rates and charges have been set at a sufficient level to cover the estimated operating expenses and debt service related to the fund, or (ii) the issuance of the debt is approved by a majority of the members of the municipal finance oversight board.

**SECTION 99.** The first paragraph of section 10 of said chapter 44, as amended by section 32 of said chapter 46, is hereby further amended by striking out the words "a board comprised of the attorney general, the state treasurer, the state auditor, and the director of accounts, or their designees" and inserting in place thereof the following words:- the municipal finance oversight board.

**SECTION 100.** Section 1 of chapter 44A of the General Laws, as amended by section 37 of said chapter 46 of the acts of 2003, is hereby further amended by striking out the definition of "Board".

**SECTION 101.** Said section 1 of said chapter 44A is hereby amended by inserting, after the definition of "Distributable aid", as appearing in the 2002 Official Edition, the following definition:-

"Municipal finance oversight board" or "Board" shall mean a board composed of the attorney general, the state treasurer, the state auditor, and the director of accounts in the department of revenue, or their designees.

**SECTION 102.** Section 9A of chapter 55 of the General Laws, as appearing in the 2002 Official Edition, is hereby amended by striking out, in line 6, the words "said contributor's" and inserting in place thereof the following words:- the contributor's employer, or the contributor's.

**SECTION 103.** Said section 9A of said chapter 55, as so appearing, is hereby further amended by inserting after the word "the", in line 15, the second time it appears, the following:- contributor's employer, or the.

**SECTION 104.** Section 13 of chapter 58 of the General Laws, as so appearing, is hereby amended by striking out, in lines 14 and 15, the words "environmental management" and inserting in place thereof the following words:- conservation and recreation.

**SECTION 105.** Clause Forty-first of section 5 of chapter 59 of the General Laws, as so appearing, is hereby amended by striking out the second paragraph and inserting in place thereof the following paragraph:-

Any amount of money annually appropriated by the commonwealth for the purpose of reimbursing cities and towns for taxes abated under this clause, clause Forty-first B, clause Forty-first C, and clause Forty-first C½ shall be distributed as hereinafter provided. The commissioner of revenue shall divide said sum by the number of exemptions under this clause, clause Forty-first B, clause Forty-first C and clause Forty-first C½ granted in the preceding fiscal year and distribute to each city and town a pro rata share of said sum based upon the number of such exemptions granted in each city and town. If a city or town has elected to grant exemptions under clause Forty-first B, clause Forty-first C or clause Forty-first C½ in lieu of this clause, the number of exemptions granted in such city or town, for purposes of this computation, shall not exceed the number of exemptions granted under this clause in such city or town in the most recent fiscal year in which such exemptions under this clause were granted. If a city or town has elected to grant exemptions under clause Forty-first C½ in lieu of this clause, the value of exemptions granted, for purposes of this exemption, shall not be greater than \$500 per residence for which an exemption is granted.

**SECTION 106.** Said section 5 of said chapter 59, as so appearing, is hereby amended by inserting after clause Forty-first C the following clause:-

Forty-first C½, Real property, of an amount equal to 5 per cent of the average assessed value of all Class One parcels within such city or town of the principal residence

of a taxpayer as used by the taxpayer for income tax purposes of a person who has reached his seventieth birthday before to the fiscal year for which an exemption is sought and occupied by the person as his domicile, or of a person who owns the same jointly with his spouse, either of whom has reached his seventieth birthday before to the fiscal year for which an exemption is sought and occupied by them as their domicile, or for a person who has reached his seventieth birthday before to the fiscal year for which an exemption is sought who owns the same jointly or as a tenant in common with a person not his spouse and occupied by him as his domicile; provided: (A) that such person (1) has been domiciled in the commonwealth for the preceding 10 years, (2) has so owned and occupied such real property or other real property in the commonwealth for 5 years, or (3) is a surviving spouse who inherits such real property and has occupied such real property in the commonwealth 5 years and who otherwise qualified under this clause; and (B) that such taxpayer's gross receipts from all sources do not exceed the dollar amount calculated to be the income limits on a taxpayer's total income for a single individual who is not the head of a household for the purposes of paragraph (3) of subsection (k) of section 6 of chapter 62 for the most recently completed state tax year, as determined by the commissioner of revenue.

A city, by vote of its council and approval of its mayor, or a town, by vote of town meeting, may adjust the following factors contained in these provisions by: (1) increasing the amount of the exemption to as much as 20 per cent of the average assessed value of all Class One parcels within such city or town; (2) reducing the requisite age of eligibility to any person age 65 years or older; and (3) reducing the residency requirements to not less than 5 years.

This clause shall take effect in any city or town upon its acceptance by such city or town for fiscal years commencing on or after July 1, 2004, or for fiscal years commencing on or after such later July 1 as the city or town may elect. In those cities and towns that accept this clause, clauses Forty-first, Forty-first B and Forty-first C shall not be applicable; provided, however, that any amount of money annually appropriated by the commonwealth for the purpose of reimbursing cities and towns for taxes abated under this clause, clause Forty-first, clause Forty-first B and clause Forty-first C shall be distributed as provided in said clause Forty-first.

**SECTION 107.** Section 57 of said chapter 59, as amended by section 52 of chapter 46 of the acts of 2003, is hereby further amended by striking out the last sentence and inserting in place thereof the following sentence:- A real estate tax bill sent out for fiscal year 2006 or any subsequent period pursuant to this section shall contain a statement that there exists a delinquency if any tax, betterment assessment or apportionment thereof, water rater, annual sewer use, or other charge which may constitute a lien is overdue more than 90 days.

**SECTION 108.** Section 57C of said chapter 59, Laws, as most recently amended by section 54 of said chapter 46 of the acts of 2003, is hereby further amended by striking out the first paragraph and inserting in place thereof the following paragraph:-

Section 57C. This section shall be applicable in any city or town which accepts this section for the purpose of establishing quarterly tax payments or semi-annual tax payments,

notwithstanding section 57. Except as otherwise provided, a notice of preliminary tax for real estate and personal property shall be sent out no later than July 1 of each year. In the case of cities and towns with quarterly tax payments, the preliminary tax shall be due and payable in 2 installments, the first installment due on August 1, the second installment on November 1, after which dates if unpaid, they shall become delinquent and subject to interest as provided herein, and in the case of cities and towns with semi-annual tax payments, the preliminary tax shall be due and payable on October 1, after which date if unpaid, it shall become delinquent and subject to interest as provided herein. The preliminary tax shall in no event exceed 50 per cent of 102½ per cent of the tax payable during the preceding fiscal year and of the amount by which such tax would have increased if any referendum question submitted to the voters under paragraph (g), (i ½), (j) or (k) of section 21C and approved for the fiscal year had been approved for the preceding fiscal year.

**SECTION 109.** Said section 57C of said chapter 59, as appearing in the 2002 Official Edition, is hereby further amended by inserting after the words "July first", in line 16, the following words:- by cities and towns with quarterly tax payments.

**SECTION 110.** The second paragraph of said section 57C of said chapter 59, as so appearing, is hereby amended by adding the following sentence:- Any notice of preliminary tax mailed after July 1 by cities and towns with semi-annual tax payments shall be due and payable October 1 after which date if unpaid, it shall become delinquent and subject to interest as provided herein; provided, however, that in the event that such notice is mailed after August 1, the notice shall be due and payable November 1, or 30 days after the date of mailing, whichever is later.

**SECTION 111.** Said section 57C of said chapter 59, as so appearing, is hereby further amended by striking out the eighth paragraph and inserting in place thereof the following paragraph:-

In the event that actual tax bills are not mailed by December 31, then the full balance of the actual tax bill issued upon establishment of the tax rate for the fiscal year, after credit is given for the preliminary tax payments previously made, shall be due and payable on May 1, or 30 days after the date of mailing, whichever is later.

**SECTION 112.** Said section 57C of said chapter 59, as so appearing, is hereby further amended by inserting after the words "December 31", in line 77, the following words:- by cities and towns with quarterly tax payments.

**SECTION 113.** Section 6I of chapter 62 of the General Laws, as so appearing, is hereby amended by striking out, in line 53, the word "five" and inserting in place thereof the following figure:- 10.

**SECTION 114.** Said section 6I of said chapter 62, as so appearing, is hereby further amended by striking out, in line 54, the figure "2005" and inserting in place thereof the following figure:- 2010.

**SECTION 115.** Section 21 of chapter 62C of the General Laws, as most recently amended by section 1 of chapter 9 of the acts of 2003, is hereby further amended by adding

the following clause:-

(21) the disclosure to the commissioner of probation of information as the commissioner may require for use in determining whether a person who has requested the appointment or assignment of counsel pursuant to chapter 211D is eligible for the services.

**SECTION 116.** The first sentence of the second paragraph of section 6A of chapter 62F of the General Laws, as appearing in section 203 of chapter 26 of the acts of 2003, is hereby amended by inserting after the words "Commonwealth Stabilization Fund," the second time they appear, the following words:- at the end of the fiscal year.

**SECTION 117.** Section 31H of chapter 63 of the General Laws, as appearing in the 2002 Official Edition, is hereby amended by striking out, in line 55, the word "five" and inserting in place thereof the following figure:- 10.

**SECTION 118.** Said section 31H of said chapter 63, as so appearing, is hereby further amended by striking out, in line 56, the figure "2005" and inserting in place thereof the following figure:- 2010.

**SECTION 119.** Subsection (c) of section 1 of chapter 63A of the General Laws, as appearing in the 2002 Official Edition, is hereby amended by adding the following paragraph:-

(3) An organization which is located within the boundaries of a Massachusetts army or air national guard base that serves as social club for members of the Massachusetts army or air national guard.

**NO SECTION 120.**

**SECTION 121.** Subsection (a) of section 14 of chapter 64C of the General Laws, as so appearing, is hereby amended by striking out the last sentence and inserting in place thereof the following sentence:- In addition to other remedies provided by law, the commissioner shall assess against any retailer or wholesaler that violates this subsection a civil administrative fine of not more than \$5,000 for a first offense, a civil administrative fine of not more than \$15,000 for a second offense, and a civil administrative fine of not more than \$30,000 with a report by the commissioner to the appropriate licensing authority or authorities for disciplinary action concerning the retailer's or wholesaler's license for a third or subsequent offense.

**SECTION 122.** Section 12 of chapter 64D of the General Laws, as so appearing, is hereby amended by striking out the first paragraph and inserting in place thereof the following paragraph:-

There shall be established within the executive office for administration and finance a county government finance review board, hereinafter referred to as the "board", consisting of the secretary for administration and finance or his designee, the commissioner of revenue or his designee, the secretary of public safety or his designee, the state auditor or his designee and a former Massachusetts sheriff, as appointed by majority vote of the Massachusetts Sheriff's Association. The secretary of administration and finance or his designee shall serve as chairperson of the board.

**SECTION 123.** Section 6 of chapter 64H of the General Laws, as so appearing, is hereby amended by inserting, after the word "ninety-three" , in line 364, the following words:- ; meals served on the premises of an organization which is located within the boundaries of a Massachusetts army or air national guard base that serves as social club for members of the Massachusetts army or air national guard;

**SECTION 124.** Subsection (d) of section 10 of chapter 66 of the General Laws, as so appearing, is hereby amended by striking out the third paragraph and inserting in place thereof the following paragraph:-

The home address and home telephone number of law enforcement, judicial, prosecutorial, department of youth services, department of social services, department of correction and any other public safety and criminal justice system personnel, and of unelected general court personnel, shall not be public records in the custody of the employers of such personnel or the public employee retirement administration commission or any retirement board established under chapter 32 and shall not be disclosed, but such information may be disclosed to an employee organization under chapter 150E, a nonprofit organization for retired public employees under chapter 180 or to a criminal justice agency as defined in section 167 of chapter 6. The name and home address and telephone number of a family member of any such personnel shall not be public records in the custody of the employers of the foregoing persons or the public employee retirement administration commission or any retirement board established under chapter 32 and shall not be disclosed. The home address and telephone number or place of employment or education of victims of adjudicated crimes, of victims of domestic violence and of persons providing or training in family planning services and the name and home address and telephone number, or place of employment or education of a family member of any of the foregoing shall not be public records in the custody of a government agency which maintains records identifying such persons as falling within such categories and shall not be disclosed.

**SECTION 125.** Section 1I of chapter 69 of General Laws is hereby amended by striking out the tenth paragraph, as most recently amended by section 19 of chapter 65 of the acts of 2004, and inserting in place thereof the following paragraph:-

Annually, the principal of each school, jointly with the school council established pursuant to this section, shall adopt student performance goals for the schools consistent with the school performance goals established by the department of education pursuant to state and federal law and regulations and, consistent with any educational policies established for the district shall assess the needs of the school in light of those goals and formulate a school plan to advance the goals and improve student performance. The school's plan to support improved student performance shall include, but not be limited to, the same components required for district improvement plans and shall conform to department and district specifications to ensure that the school improvement plans meet state and federal law requirements. Each school improvement plan shall be submitted to the superintendent and the school committee for review and approval not later than July 1 of the year in which the plan is to be implemented, according to a plan development and review schedule established

by the district superintendent.

**SECTION 126.** Said chapter 69 is hereby amended by inserting after section 1M, as appearing in the 2002 Official Edition, the following section:-

Section 1N. (a) The department of education, hereinafter referred to as the department, shall establish a grant program, subject to appropriation, to be known as the alternative education grant program for the purpose of providing, grants to assist school districts, and Horace Mann and commonwealth charter schools with the development and establishment of alternative education programs and services to students suspended or expelled from school. The grants shall support the development of alternative education programs which would: (1) allow school districts to coordinate efforts to establish interdistrict regional alternative education collaboratives to provide educational services to suspended or expelled students: or (2) establish a district based alternative education program for those students. The grants may also be used to encourage the use of technology in alternative education programs. The grants shall also encourage voluntary expansion of existing alternative education programs in the commonwealth, and shall be used to provide alternative education programs for students who are at risk of educational failure due to truancy, or dropping out of school. Grants may also be used to assist in developing, programs that provide a range of approaches to address behavior issues, such as behavior specialists, in-school suspension rooms and crisis centers, in addition to out-of-school alternative settings.

Programs designed under the grants shall be developed at the middle and high school levels and shall afford students the opportunity to earn a high school diploma in accordance with section 1D, and to be taught to the same academic standards and curriculum frameworks established for all students in accordance with sections 1D and 1E. The programs shall make use of existing resources in school districts, educational collaboratives, community colleges, and other agencies, service providers, and organizations. Programs shall be designed as placements that, at a minimum, educate students to the same academic standards and curriculum frameworks as taught to all students, address behavioral problems, utilize small class size, address individual needs and learning styles, provide engaging instruction and a supportive environment, and, where appropriate, utilize flexible scheduling. The programs shall also provide a comprehensive array of social services to support a student's remediation of issues that cause school failure, excessive absenteeism, truancy and school dropout. Grant recipients shall develop remediation plans for students that address both academic and behavioral issues. Grants may also be made available for in-school regular education programs that include self-improvement, behavior management and life skills training to help provide students with tools to better manage their lives and attitudes, to support programs that use family-based approaches, and to assist students and teachers during the transition of students back into regular education classrooms.

A grant awarded pursuant to this subsection, shall require that recipients undertake ongoing program evaluations that document the effectiveness of the program in helping students to achieve academically to the same academic standards and curriculum frameworks

required for all students, to develop self-management skills, and to reintegrate and remain in regular education classrooms. In awarding grants, priority shall be given to programs that employ interventions that have been empirically validated.

The department shall establish guidelines governing the alternative education grant program. The guidelines shall include, but not be limited to, a requirement that when a student is transferred to an alternative education program a representative of the school district shall meet with the student and the student's parents or legal guardian to develop an agreement that specifies the responsibilities of the school, the student and the student's parents or legal guardian. The agreement shall, at a minimum, include:

- (1) a remediation plan to address both academic and behavioral issues;
- (2) a plan for frequent evaluations and assessments of the student's adjustment, and academic achievement and progress;
- (3) a requirement that the parents or legal guardian of the student attend specified meetings or conferences with teachers, or utilize such other means of communication as determined necessary to facilitate communication, to review and assist in the student's progress;
- (4) timetable for reintegrating the student into a regular education classroom;
- (5) the student's and the parents' or legal guardian's acknowledgement that they understand and accept the responsibilities imposed by the agreement.

(b) The department shall establish a grant program, subject to appropriation, to assist school districts with the development and establishment of in-school regular education programs and services to address within the regular education school program the educational and psycho-social needs of children whose behavior interferes with learning, particularly those who are suffering from the traumatic effects of exposure to violence. As used in this subsection, students suffering from the traumatic effects of exposure to violence shall include, but not be limited to, those exposed to abuse, family or community violence, war, homelessness or any combination thereof. The grants shall support the development of school based teams with community ties that: (1) collaborate with broadly recognized experts in the fields of trauma and family, community violence and with battered women shelters; (2) provide ongoing training to inform and train teachers, administrators, and other school personnel to understand and identify the symptoms and trauma; and (3) evaluate school policy and existing school and community programs and services to determine whether and to what extent students identified as suffering from exposure to trauma can receive effective supports and interventions that can help them to succeed in their public school programs, and where necessary be referred quickly and confidentially to appropriate services.

Grants may also be awarded to assist school districts in development comprehensive programs to help prevent violence in schools, from whatever causes, and to promote school safety. The programs shall be designed to meet the following objectives: creating a school environment where students feel safe and that prevents problems from starting; helping students to take the lead in keeping the school safe; ensuring that school personnel have the skills and resources to identify and intervene with at-risk students; equipping students and

teachers with the skills needed to avoid conflict and violence; and helping schools and individuals to reconnect with the community and share resources.

The department shall develop guidelines governing the implementation of the grant program authorized by this subsection. A grant awarded pursuant to this subsection, shall require that recipients undertake ongoing evaluations of the effectiveness of the program. In awarding grants, priority shall be given to programs that are based on empirically validated interventions.

The department of education, in consultation with the department of public health and the department of mental health, shall establish an advisory committee to assist in implementing the grant program and in assisting public schools in addressing the learning and behavior problems of students who manifest trauma-related symptoms or classroom behavior that interferes with learning. Members of the advisory committee shall include but not be limited to: 3 educators, 1 of whom shall serve as the chair, appointed by the commissioner of the department of education; 2 leaders in the field of trauma and its relationship to school learning and behavior appointed by the commissioner of the department of public health, 2 leaders in mental health with expertise in family and/or community violence appointed by the commissioner of mental health: 1 leader in battered women's services appointed by the commissioner of public health: 1 leader in the area of homelessness and its impact on children appointed by commissioner of mental health; and, 3 parents, 1 each appointed by the commissioner of education, the commissioner of public health, the commissioner of mental health. The advisory committee, at its discretion, may select additional members with relevant experience including but not limited to child advocates, medical doctors and representatives of juvenile and probate court.

(c) The commissioner shall evaluate annually the effectiveness of programs established under this section including the potential for replicating such programs throughout the commonwealth. The annual evaluation shall also examine whether students in alternative education programs funded under this section are being taught to the same academic standards required for all students, how much time students are spending in the programs, the racial profile of expelled or suspended students and the percentages of the students who are in special education or bilingual education. The commissioner shall also provide technical assistance to school districts seeking to replicate programs funded under this section, and shall provide training for teachers in the development of effective remediation plans for students in alternative education, and in the development of skills, techniques, and innovative strategies to assist the students. In evaluating programs funded under subsection (b), the commissioner shall consult with the department of public health, the department of mental health, and the advisory committee established pursuant to said subsection (b).

**SECTION 127.** Section 59C of chapter 71 of the General Laws is hereby amended by striking out the fifth paragraph, inserted by section 82 of chapter 46 of the acts of 2003, and inserting in place thereof the following paragraph:-

The principal of each school, jointly with the school council established pursuant to this section, shall on an annual basis, in conformity with section 11 of chapter 69, develop and submit for approval by the district superintendent and school committee a plan for improving student performance. The plan shall be prepared in a manner and form prescribed by the department of education and shall conform to any policies and practices of the district consistent with the plan. If the school improvement plan is not reviewed by the school committee within 30 days after the school committee receives the school improvement plan, the plan shall be deemed to have been approved by the school committee.

**SECTION 128.** The fourth sentence of the first paragraph of subsection (c) of section 5A of chapter 71B of the General Laws, as appearing in section 216 of chapter 26 of the acts of 2003, is hereby further amended by striking out, in the fourth sentence, the word "current" and inserting in place thereof the following word:- previous.

**SECTION 129.** Said section 5A of said chapter 71B is hereby further amended by striking out subsections (f) and (g), as appearing in the 2002 Official Edition, and inserting in place thereof the following 2 subsections:-

(f) Reimbursements shall be made based on the previous year's per pupil instructional costs, as pursuant to subsection (c), in compliance with department of education audits and procedures. Reimbursements shall be made in 4 quarterly payments to coincide with the distribution of funds made available pursuant to said chapter 70. Each quarterly payment shall be equal to 25 per cent of the estimated reimbursements for the previous year's submissions, subject to appropriation.

(g) Notwithstanding the foregoing, the commonwealth shall continue to pay to approved private residential schools sums authorized by this section on a direct payment basis at the request of a district and the private residential school to which that district sends a student whose tuition is partly reimbursable pursuant to this section.

**SECTION 130.** Section 8A of chapter 74 of the General Laws, as amended by section 84 of chapter 46 of the acts of 2003, is hereby further amended by adding the following sentence:- The school committee of the city or town in which the student resides, or the regional vocational or county agricultural school district, city, town, independent school, or collaborative providing the approved vocational-technical program to which the student has been admitted under section 7, shall, subject to appropriation, and upon voting to provide transportation to the student, be eligible for state reimbursement to the maximum extent of 50 per cent of the amounts so expended; but, applicants for the reimbursement shall not charge fees for more than 50 per cent of the cost of said transportation.

**SECTION 131.** Chapter 75 of the General Laws is hereby amended by inserting after section 34 the following section:-

Section 34A. If tuition for the medical school is set at a lower amount for residents of the commonwealth, a resident shall be deemed to be a person who has resided in the commonwealth for 7 consecutive years or more prior to enrollment or a person whose immediate family has resided in the commonwealth for 7 consecutive years or more prior to his enrollment.

**SECTION 132.** Section 40E of chapter 82 of the General Laws, as so appearing, is hereby amended by striking out, in line 3 the figure "500" and inserting in place thereof the following figure:- 1,000.

**SECTION 133.** Said section 40E of said chapter 82, as so appearing, is hereby further amended by striking out, in line 4 the figure "1,000" and inserting in place thereof the following figure:- 5,000.

**SECTION 134.** Said section 40E of said chapter 82, as so appearing, is hereby further amended by striking out, in line 4 the figure "5,000" and inserting in place thereof the following figure:- 10,000.

**SECTION 135.** Section 1 of chapter 83 of the General Laws, as so appearing, is hereby amended by inserting after the word "drainage", in line 6, the following words:- , stormwater treatment and disposal.

**SECTION 136.** The first paragraph of said section 1 of said chapter 83, as so appearing, is hereby amended by inserting after the second sentence the following sentence:- The works for drainage may include a stormwater treatment facility or measure of treating, or removing sediment or contaminants from, stormwater discharges.

**SECTION 137.** Said first paragraph of said section 1 of said chapter 83, as so appearing, is hereby further amended by adding the following sentence:- For the purposes of this chapter, the word 'stormwater' shall mean surface runoff from precipitation.

**SECTION 138.** Section 10 of said chapter 83, as so appearing, is hereby amended by inserting after the first sentence the following sentence:- A city, town, sewer district, or a district established for the purpose of managing stormwater, pursuant to section 1A of chapter 40, may from time to time prescribe rules and regulations for the use of main drains and the management of stormwater to prevent the discharge of sediment and pollutants therein which may tend to degrade wetlands, streams, other surface water bodies, and groundwater and to inspect the facilities for the collection and infiltration of stormwater in order to reduce flooding and improve the quality of and decrease the quantity of stormwater runoff; for the connection of estates and buildings with main drains; for the construction, alteration, and use of all connections entering into such main drains; and for the inspection of all materials used therein; and may prescribe civil penalties, not exceeding \$5,000 for each day of violation of a rule or regulation.

**SECTION 139.** Section 16 of said chapter 83, as so appearing, is hereby amended by inserting after the word "sewers", in line 3, the following words:- and main drains and related stormwater facilities.

**SECTION 140.** Said section 16 of said chapter 83, as so appearing, is hereby further amended by adding the following 3 sentences:- In establishing quarterly or annual charges for the use of main drains and related stormwater facilities, the city, town, or district may either charge a uniform fee for residential properties and a separate uniform fee for commercial properties or establish an annual charge based upon a uniform unit method; but,

---

**Chap. 149**

the charge shall be assessed in a fair and equitable manner. The annual charge shall be calculated to supplement other available funds as may be necessary to plan, construct, operate and maintain stormwater facilities and to conduct stormwater programs. The city, town or district may grant credits against the amount of the quarterly or annual charge to those property owners who maintain on-site functioning retention/detention basins or other filtration structures as approved by the stormwater utility, conservation commission, or other governmental entity with appropriate authority.

**SECTION 141.** Section 1 of chapter 90 of the General Laws, as so appearing, is hereby amended by striking out the definition of "Owner" and inserting in place thereof the following definition:-

"Owner", a person, other than a lien holder, having title to a vehicle. The term includes a person entitled to the use and possession of a vehicle subject to a security interest in another person, but excludes a lessee under a lease not intended as security and a bailee of any description; but, the term shall include the commonwealth and its political subdivisions for the purpose of registering a vehicle that is on loan from the United States or from a motor vehicle manufacturer or distributor.

**SECTION 142.** Said chapter 90 is hereby further amended by inserting after section 19J the following section:-

Section 19K. For the purposes of this section, the term "hitching mechanism" shall be defined as the lift cylinder and the lift arm. Nothing in this section shall apply to state, county or municipally owned or operated vehicles. Between May 15 and October 15 of each year, any vehicle with a gross weight of less than 26,000 pounds which is equipped with a plow shall be required to have removed the plow and hitching mechanism used with the plow. Vehicles equipped with an apparatus that allows the hitching mechanism to be folded flat leaving no protruding surfaces, shall only be required to have the plow itself removed; if the hitching mechanism is in the folded flat position while the vehicle is in operation. If snowfall occurs before October 25 or after May 15 vehicles subject to this act may be re-equipped with the plow and any apparatus necessary for clearing snow. Vehicles shall be required to abide by this section within 72 hours of the conclusion of snowfall.

Any individual found operating a motor vehicle in violation of this section shall be issued a warning for the first offense, shall be fined \$250 for the second offense and \$500 and revocation of the vehicle's registration for the third offense. The revocation of a vehicle's registration due to a third offense shall remain in effect until the time as the vehicle is in compliance with this section. This section shall not apply to hitching mechanisms which are permanently affixed through welding or other means, before the effective date of this section. However, it shall be unlawful, and punishable by the fines and revocations, for any person to permanently affix through welding or other means a hitching mechanism governed under this section after the effective date of this section.

The registry of motor vehicles shall, within 180 calendar days of the effective date of this act, develop a list of makes and models of hitching mechanisms that fold flat leaving

no protruding surfaces. The registry of motor vehicles shall promulgate and implement regulations governing a system of verification whereby the registry of motor vehicles can ensure a motor vehicle's compliance with this section following a third offense.

**SECTION 143.** Chapter 90B of the General Laws is hereby amended by inserting after section 3 the following section:-

Section 3A. In addition to the fee established in section 3, there shall be an additional fee of \$5 to be paid into the general fund.

**SECTION 144.** Section 2 of chapter 90D of the General Laws, as appearing in the 2002 Official Edition, is hereby amended by inserting after the word "ninety", in line 3, the following words:- ; provided, that a vehicle on loan from the United States or from a motor vehicle manufacturer or distributor to the commonwealth or a political subdivision thereof, may be registered by the commonwealth or political subdivision, or by an agency of the commonwealth or a political subdivision that the loaned vehicle has been re-assigned to, without the need to apply for a certificate of title, if the registrant is in possession of a written agreement evidencing the vehicle loan and the agreement is signed by an authorized employee of the United States government agency or motor vehicle manufacturer or distributor providing the vehicle, or if re-assigned from an agency of the commonwealth or a political subdivision, it is signed by an authorized employee of the agency or political subdivision of the commonwealth which received the vehicle from the United States or motor vehicle manufacturer or distributor and re-assigned it to the registrant.

**SECTION 145.** Section 10C of chapter 91 of the General Laws, as so appearing, is hereby amended by striking out, in line 23, the word "division" and inserting in place thereof the following word:- office.

**SECTION 146.** Section 1A of chapter 92 of the General Laws, inserted by section 243 of chapter 26 of the acts of 2003, is hereby amended by striking out the second sentence.

**SECTION 147.** Said chapter 92 is hereby further amended by inserting after section 35A the following section:-

Section 35B. (a) No person shall operate a truck, bus, motor home, camper, tractor, trailer, semi-trailer or any other motor vehicle with a seating capacity of more than 15 persons on a road, driveway, parkway, boulevard or bridge under the jurisdiction of the division of urban parks and recreation that is restricted to pleasure vehicles only without a permit from the division; provided that light duty trucks, having a gross vehicle weight of 10,000 pounds or less and a maximum overall height of 7 feet or less may be operated on such roadway.

(b) As used in this section, "permit" shall mean a written permit by the division. A permit shall only be granted if the division determines that granting a permit serves the public need and after completion of a formal permitting process to be established by the division, which shall require that:

(1) a party seeking a permit submit a written application to the division that provides the grounds for which the permit is being sought and a comprehensive description of the anticipated activity;

---

**Chap. 149**

(2) the division hold at least 1 public hearing concerning the public need for the permit;

(3) the division provide the local governing body of each impacted community a copy of the permit application at least 30 days before the public hearing;

(4) the division, within 180 days from receipt of a permit application, notify in writing the permit applicant and the local governing body of each impacted community of its decision to either grant or refuse to grant the permit; and

(5) the division provide to the permit applicant and the local governing body of each impacted community, within 10 days of notification of its decision, written findings that set forth the reasons for its decision to either grant or refuse to grant the permit.

(c) Notice of the time and place of a public hearing held under this section shall be given by the division, at the expense of the party who submitted the application, not less than 14 days before the hearing by publication in a newspaper of general circulation in the impacted city or town and by first class mail to the local governing body of the impacted city or town.

(d) A permit issued under this section shall be revocable at will by the division and shall be nontransferable by the holder. The division may assess a reasonable fee upon the receipt of a permit application. All funds collected under this subsection shall be deposited in the General Fund.

(e) Judicial review shall be governed by section 14 of chapter 30A to the extent not inconsistent with this section.

(f) A person who violates subsection (a) shall be subject to an administrative fine of not less than \$100 nor more than \$500.

**SECTION 148.** The first sentence of the first paragraph of section 37 of said chapter 92, as appearing in section 253 of chapter 26 of the acts of 2003, is hereby amended by striking out the words "or boulevards" and inserting in place thereof the following words:-, roads, driveways, parkways, boulevards or bridges.

**SECTION 148A.** The first sentence of the second paragraph of said section 37 of said chapter 92, as so appearing, is hereby amended by striking out the words "or boulevards" and inserting in place thereof the following words:-, roads, driveways, parkways, boulevards or bridges.

**SECTION 148B.** The first sentence of the third paragraph of said section 37 of said chapter 92, as so appearing, is hereby amended by striking out the words "or boulevard" and inserting in place thereof, in each instance, the following words:- road, driveway, parkway, boulevard or bridge.

**SECTION 149.** The last sentence of section 4 of chapter 92A ½ of the General Laws, as appearing in section 290 of said chapter 26, is hereby amended by striking out the words "general fund" and inserting in place thereof the following words:- Water Supply Protection Trust, established in section 73 of chapter 10.

**SECTION 150.** Section 11 of chapter 92A ½ of the General Laws, as so appearing,

is hereby amended by striking out the fifth sentence and inserting in place the following sentence:- Within 30 days of receipt of the department bill, the treasurer of the authority shall remit the total billed amount to the Water Supply Protection Trust, established in section 73 of chapter 10.

**SECTION 151.** Said section 11 of said chapter 92A ½, as so appearing, is hereby further amended by striking out the seventh sentence and inserting in place the following sentence:- The commissioner of the department shall forward to the treasurer of the commonwealth the revenues generated by the division which shall be credited to the Water Supply Protection Trust, established in section 73 of chapter 10.

**SECTION 152.** Section 12 of said chapter 92A ½, as so appearing, is hereby amended by striking out the second sentence and inserting in place the following 2 sentences:- The revenue shall be deposited into the Water Supply Protection Trust established in section 73 of chapter 10 for the purposes of meeting said debt service costs. The comptroller shall transfer to the General Fund from the Water Supply Protection Trust that portion of annual assessments against the Massachusetts Water Resources Authority identified as reimbursement for debt service payments that have been previously charged to the General Fund.

**SECTION 153.** Chapter 111 of the General Laws is hereby amended by inserting after section 4L the following section:-

Section 4M. (a) The department shall, subject to appropriation, establish and maintain a program to mitigate the impacts of hepatitis C. The program shall provide screening, information, education and treatment components, and may include research grants. The program shall increase public awareness of hepatitis C and such efforts shall be undertaken in multiple languages and in a culturally appropriate manner. The program shall provide information to health care providers about risks, available prevention methods, and treatment options for hepatitis C.

(b) The program, to the extent the department determines feasible and appropriate, shall be integrated with substance abuse, HIV/AIDS and sexually transmitted disease service programs.

(c) The department may accept for the purposes of the program any special grant of money, services or property from the federal government or any of its agencies or from any foundation, medical school or other organization.

**SECTION 154.** Paragraph G of section 5K of said chapter 111, as appearing in the 2002 Official Edition, is hereby amended by striking out the last sentence and inserting in place thereof the following sentence:- The department may make a collection based on this assessment directly from the electric companies and deposit the monies directly into the Radiation Control Trust Account.

**SECTION 155.** Said chapter 111 is hereby further amended by inserting after section 72Y the following section:-

Section 72Z. (a.) No licensed skilled nursing facility or intermediate care facility may prohibit the formation of a family council and when requested by a member of the resident's

family or the resident's representative, the family council shall be allowed to meet in a common meeting room of the facility at least once a month during the mutually agreed upon hours.

(b.) For the purpose of this section "Family council" means a meeting of family members, friends or representatives of 2 or more residents to confer in private without facility staff.

(c.) The facility will inform family members upon the admission of a resident of their right to form a family council. The facility shall not deny a family council the opportunity to accept help from an organization or individual outside of the facility.

(d.) Facility policies on family councils shall in no way limit the rights of residents, family members, and family council members to meet independently with outside persons.

(f.) The facility shall not prevent or interfere with the family council receiving outside correspondence which is addressed to the council. Family council mail shall be delivered unopened to the governing body or contact person of the council.

(g.) Staff or visitors may attend family council meetings at the group's invitation.

(h.) The facility shall provide a designated staff person who shall be responsible for providing assistance to the family council, if requested by the council, and responding to written requests that result from family council meetings.

(i.) The facility shall consider the views and act upon the grievances and recommendations of the family council concerning proposed policy and operational decisions affecting residents care and life at the facility.

(j.) The facility shall respond in writing to written requests or concerns of the family council within 5 working days.

(k.) When a family council exists during the admission process, the facility shall inform family members or representatives of new residents, who are identified on the admissions agreement, or in the resident's records, of the existence of a family council. The notice shall include the time, place and date of meeting and the person to contact regarding involvement in the family council.

(l.) No facility shall willfully interfere with the formation, maintenance or promotion of family council. The willful interference with a family council shall include, but not be limited to, discrimination or retaliation in any way against an individual as a result of his/her participation in a family council or the willful scheduling of facility events in conflict with previously scheduled family council meetings.

(m.) A violation of this section will constitute a violation of resident rights. The Department of Public Health shall impose a civil penalty upon any person who violates this section and shall promulgate such regulations as may be necessary to implement this section.

**SECTION 156.** Chapter 112, of the General Laws hereby amended by inserting after section 87AAA the following section:-

Section 87AAA<sup>34</sup>. (a) This section shall only apply to real estate brokers and salesmen for the intended purchase or sale of land with a building intended for use as 1 to 4 residential dwellings or the intended purchase or sale of land on which a building is intended

to be constructed for use as 1 or 2 residential dwellings.

(b) A real estate broker or salesperson may act as a dual agent who represents both prospective purchasers and sellers only with the informed written consent of the prospective purchasers and sellers. Consent to dual agency shall be obtained in the form prescribed by the board and shall be signed and dated. Such written consent may be obtained when an agency relationship with the seller or purchaser is created, but notice of a dual agency relationship shall also be given to the prospective purchaser and to the seller after a listed property is first shown to the purchaser. Nothing herein shall require written notice to each prospective purchaser or seller who attends an open house showing of real property, provided that the broker or salesperson must conspicuously disclose the agency relationship.

(c) A real estate broker or salesperson and his affiliates may act for more than one party to a real estate transaction as designated agents only with informed written consent. With informed written consent in the form prescribed by the board, a real estate broker or salesman may appoint one or more licensees to act as a designated agent on behalf of a purchaser and may appoint one or more other licensees to act as a designated agent on behalf of a seller for a potential real estate transaction. With informed consent in the form prescribed by the board, a real estate broker or salesman may appoint one or more licensees to act as a designated agent on behalf of a seller and may appoint one or more other licensees to act as a designated agent on behalf of a purchaser for a potential real estate transaction. Appointment of a designated agent shall not be made unless the party has consented, at the commencement of the party's agency relationship with the real estate broker, that the party's designated agency relationship shall not extend to any other licensee affiliated with a broker and shall be limited to the licensees appointed to act as designated agent.

Upon appointment of a designated agent, the responsibility to satisfy agency duties owed to a purchaser or seller shall be solely the responsibility of the designated agent. Substitution of designated agents shall not be made without consent. When a designated agent is appointed, information known or acquired by the designated agent shall not be imputed to the appointing broker or salesman or to other affiliated licensees. Notwithstanding the foregoing, a designated agent and an appointing broker or salesman shall each have an obligation to reveal known material defects in a listed property and shall comply with all other requirements of law. When a real estate broker or salesman has appointed designated agents for both a buyer and a seller, the broker or salesperson shall be presumed to be a dual agent, who does not exclusively represent either the buyer or seller. Appointment of a designated agent shall not limit the liability or responsibility of the appointing broker or salesperson for breach of duty by a designated agent.

(d) There shall be a conclusive presumption that a purchaser or seller has consented to a designated agency relationship, if he has signed a disclosure form that substantially contains the descriptions in this section and any other provisions required by law no later than the date that the buyer makes or submits an offer to purchase the property or that a purchase and sale agreement is executed, whichever is first. Consent may be given before identifying a property or transaction. Nothing herein shall require written notice to each prospective purchaser or seller who attends an open house showing of real property, provided

that the broker or salesperson must conspicuously disclose the agency relationship.

(e) No real estate broker or salesman shall enter into or offer a subagency agreement to another real estate broker or salesperson when marketing a property for sale without informing the seller about vicarious liability and obtaining written consent of the seller.

(f) A real estate broker or salesman may provide services as a facilitator who does not represent a buyer or seller and who does not act in an agency capacity.

**NO SECTION 157.**

**NO SECTION 158.**

**SECTION 159.** Section 44 of chapter 114 of the General Laws, as appearing in the 2002 Official Edition, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:- The body of a deceased person shall not be cremated within 48 hours after his decease unless he died of a contagious or infectious disease, and, if the death occurred within the commonwealth, the body shall not be cremated by any corporation authorized to cremate the bodies of the dead until its officers have received the certificate or burial permit required by law before burial, and a certificate from a medical examiner or similarly authorized person that he has viewed the body and made personal inquiry into the cause and manner of death, and is of opinion that no further examination or judicial inquiry concerning the same is necessary.

**SECTION 160.** Section 9E of chapter 118E of the General Laws is hereby repealed.

**SECTION 161.** The fourth paragraph of section 12 of said chapter 118E, as appearing in the 2002 Official Edition, is hereby amended by adding the following sentence:- Regulations that restrict coverage or covered services shall be adopted only after public notice and hearing.

**SECTION 162.** Section 13A of said chapter 118E, as so appearing, is hereby amended by adding the following paragraph:-

For any hospital fiscal year commencing on or after October 1, 2003, the division shall not classify any ventilator dependent patients in a public payor-dependent non-acute hospital as an administratively necessary day patient, unless a physician member of the hospital's utilization review committee finds and certifies that the medical services required by the patient are actually available in a non-hospital facility located within a 25 mile radius of the patient's principle residence and that the patient will receive safe and effective care. The division shall not make any decision or take any action as to the continuing necessity of hospital care in a public payor-dependent non-acute hospital which is inconsistent with the hospital utilization review committee findings. The division shall pay public payor-dependent non-acute hospitals at the full hospital inpatient per diem rate for services provided to such ventilator dependent patients entitled to medical assistance and the ventilator dependent patients shall not be subject to administratively necessary day rates.

**SECTION 163.** Section 14A of said chapter 118E, as so appearing, is hereby amended by adding the following paragraph:-

In the event that a nursing facility resident who is age 22 years or under and is a MassHealth recipient leaves the nursing facility for non-medical reasons, the facility shall preserve his bed for a period of up to 10 calendar days per year and the division shall pay to preserve his bed in the facility for a period of up to 10 calendar days per year.

**SECTION 164.** Section 16D of said chapter 118E of the General Laws, as most recently amended by section 323 of chapter 26 of the acts of 2003, is hereby further amended by striking out subsections (2) and (3) and inserting in place thereof the following 2 subsections:-

(2) A person who is not a citizen of the United States but who is either a qualified alien within the meaning of section 431 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 or is otherwise permanently residing in the United States under color of law may receive different benefits which shall be not less than the same benefits provided to the eligibility group described in clause (g) of subsection (2) of section 9A, unless the person: (i) is residing in a nursing facility, as defined by 42 U.S.C. section 1396, as of June 30, 1997; (ii) was receiving services or benefits pursuant to this chapter as of June 30, 1997; (iii) had an application for long-term care services pending on July 1, 1997; or (iv) is eligible for federally reimbursed services or benefits; services or benefits other than emergency services shall not be provided to undocumented aliens unless required by federal law.

(3) Benefits for aliens under this section shall not be provided to persons age 19 to 64, inclusive, unless the aliens are disabled; but benefits shall not be terminated for persons described in clauses (i), (ii), (iii) and (iv) of subsection (2).

**SECTION 165.** Section 23 of said chapter 118E, as amended by section 325 of said chapter 26, is hereby further amended by inserting before the first paragraph the following paragraph:-

As used in this section, health care insurer, health insurer and health insurance shall include, but not be limited to, any health insurance company, health maintenance organization, group or nongroup health plan, self-insured plan, or any other private or public program, plan, or entity that provides, arranges, or pays for any health, accident, or sickness benefits.

**SECTION 166.** The first paragraph of said section 23 of said chapter 118E, as appearing in the 2002 Official Edition, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:- Notwithstanding the provisions of any general or special law, rule or regulation to the contrary, the division shall be subrogated to the rights of any recipient of medical assistance under this chapter and may take any and all actions available to such recipient to secure benefits under any policy issued by any health care insurer that is or may be liable to pay for covered services obtained by a recipient of medical assistance to the extent of any medical benefits provided by the division on behalf of the recipient or his or her dependents.

**SECTION 167.** Section 31 of said chapter 118E, is hereby amended by striking out, subsections (c) and (c ½), as most recently amended by section 329 of chapter 26 of the acts

of 2003, and inserting in place thereof the following subsection:-

(c) For purposes of this section, "estate" shall mean all real and personal property and other assets includable in the decedent's probate estate under the General Laws.

**SECTION 168.** Said chapter 118E is hereby amended by striking out section 32, as amended by section 330 of said chapter 26, and inserting in place thereof the following section:-

Section 32. (a) Notwithstanding any provision of law to the contrary, a petition for admission to probate of a decedent's will or for administration of a decedent's estate shall include a sworn statement that copies of said petition and death certificate have been sent to the division by certified mail. Within 30 days of a request by the division, an executor or administrator shall complete and send to the division by certified mail a form prescribed by the division and provide such further information as the division may require.

In the event a petitioner fails to send copies of the petition and death certificate to the division and the decedent received medical assistance for which the division is authorized to recover under section thirty-one, any person receiving a distribution of assets from the decedent's estate shall be liable to the division to the extent of such distribution.

(b) The division may present claims against a decedent's estate as follows: (1) within four months after approval of the official bond of the executor or administrator, file a written statement of the amount claimed with the registry of probate where the petition was filed and deliver or mail a copy thereof to the executor or administrator. The claim shall be deemed presented upon the filing of the claim in the registry of probate; or (2) within one year after date of death of the decedent, commence an action under the provisions of section 9 of chapter 197.

(c) When presenting its claim by written statement under subsection (b), the division shall also notify the executor or administrator of (1) the circumstances and conditions which must exist for the division to be required to defer recovery under section 31 and (2) the circumstances and conditions which must exist for the division to waive recovery under its regulations for undue hardship.

(d) The executor or administrator shall have 60 days from the date of presentment to mail notice to the division by certified mail of one or more of the following findings: (1) the claim is disallowed in whole or in part, or (2) circumstances and conditions where the division is required to defer recovery under section 31 exist, or (3) circumstances and conditions where the division will waive recovery for undue hardship under its regulations exist. A notice under clause (2) or (3) shall state the specific circumstances and conditions which exist and provide supporting documentation satisfactory to the division. Failure to mail notice under clause (1) shall be deemed an allowance of the claim. Failure to mail notice under clause (2) shall be deemed an admission that the circumstances or conditions where the division is required to defer recovery under section 31 do not exist. Failure to mail notice under clause (3) shall be deemed an admission that the circumstances and conditions for the division to waive recovery for undue hardship under its regulations do not exist.

(e) If the division at any time within the period for presenting claims under subsection (b) amends the amount due, the executor or administrator shall have an additional 60 days to mail notice to the division under clause 1 of subsection (d).

(f) If the division receives a disallowance under clause (1) of subsection (d), the division may commence an action to enforce its claim in a court of competent jurisdiction within 60 days after receipt of said notice of disallowance. If the division receives a notice under clause (2) or (3) of said subsection (d), with which it disagrees, the division may commence an action in a court of competent jurisdiction within 60 days after receipt of said notice. If the division fails to commence an action after receiving a notice under clause (2) of said subsection (d), the division shall defer recovery while the circumstances or conditions specified in said notice continue to exist. If the division fails to commence an action after receiving a notice under clause (3) of said subsection (d), the division shall waive recovery for undue hardship.

(g) Unless otherwise provided in any judgment entered, claims allowed pursuant to this section shall bear interest at the rate provided under section 6B of chapter 231 commencing four months plus 60 days after approval of the official bond of the executor or administrator.

Notwithstanding the foregoing, if the division fails to commence an action after receipt of a notice under clause (2) of subsection (d), interest at the rate provided under section 6B of chapter 231 shall not commence until the circumstances or conditions specified in the notice received by the division under said clause (2) cease to exist. The executor or administrator shall notify the division within 30 calendar days of any change in the circumstances or conditions asserted in said clause (2) notice, and upon request by the division, shall provide updated documentation verifying that the circumstances or conditions continue to exist.

If the division's claim has been allowed as provided herein and no circumstances and conditions requiring that the division defer recovery under section 31 exist, it may petition the probate court for an order directing the executor or administrator to pay the claim to the extent that funds are available or for such further relief as may be required.

(h) Notice of a petition by an executor or administrator for a license to sell real estate shall be given to the division in any estate where:

(1) the division has filed a written statement of claim with the registry of probate as provided in subsection (b); or

(2) the division has filed with the registry of probate a notice, as prescribed under subsection (a) of section 9 of chapter 197, that an action has been commenced.

(i) In all cases where:-

(1) the division determines it may have a claim against a decedent's estate;

(2) a petition for administration of the decedent's estate or for admission to probate of the decedent's will has not been filed; and

(3) more than one year has passed from the decedent's date of death, the division is hereby authorized to designate a public administrator to be appointed and to serve pursuant

to chapter 194. Said designation by the division shall include a statement of the amount claimed. This provision shall apply to all estates in which no petition for administration of the decedent's estate or for admission to probate of the decedent's will has been filed as of the effective date of this section, regardless of the decedent's date of death.

(j) If the executor or administrator wishes to sell or transfer any real property against which the division has filed a lien or claim not yet enforceable because circumstances or conditions specified in section 31 continue to exist, the division shall release the lien or claim if the executor or administrator agrees to (1) either set aside sufficient assets to satisfy the lien or claim, or to give bond to the division with sufficient surety or sureties and (2) repay the division as soon as the circumstances or conditions which resulted in the lien or claim not yet being enforceable no longer exist. Notwithstanding the foregoing provision or any general or special law to the contrary, the division and the parties to the sale may by agreement enter into an alternative resolution of the division's lien or claim.

**SECTION 169.** Section 1 of chapter 118G of the General Laws, as most recently amended by section 337 of said chapter 26, is hereby further amended by inserting after the definition of "Payments subject to surcharge" the following 2 definitions:-

"Pediatric hospital", an acute care hospital which limits services primarily to children and which qualifies as exempt from the Medicare Prospective Payment system regulations.

"Pediatric specialty unit", a pediatric unit of an acute care hospital in which the ratio of licensed pediatric beds to total licensed hospital beds as of July 1, 1994, exceeded 0.20. In calculating that ratio, licensed pediatric beds shall include the total of all pediatric service beds, and the total of all licensed hospital beds shall include the total of all licensed acute care hospital beds, consistent with Medicare's acute care hospital reimbursement methodology as put forth in the Provider Reimbursement Manual Part 1, Section 2405.3G.

**SECTION 170.** Section 11 of said chapter 118G is hereby amended by inserting after the word "hospital", the third time it appears, in line 27, as so appearing, the following words:- , pediatric hospital, pediatric specialty unit.

**SECTION 171.** Section 18 of said chapter 118G is amended by adding the following subsection:-

(p) Within the Uncompensated Care Trust Fund, there shall be established a department of mental retardation transfer account, administered by the secretary of health and human services, consisting of any receipts from the assessment collected pursuant to section 27, including transfers by the department of mental retardation of amounts sufficient to pay the assessment for public facilities, any federal financial participation received by the commonwealth as a result of expenditures funded by such assessments, and any interest thereon. The secretary may authorize expenditures of amounts from such account without further appropriation. The comptroller shall transfer no later than the first business day of each quarter, the amounts indicated by the department of mental retardation to provide the appropriate payment adjustments for operating the intermediate care facilities for the mentally retarded and the community residences serving individuals with mental retardation.

The comptroller shall establish such procedures as may be necessary to accomplish the purpose of this section, including procedures for the proper transfer, accounting and expenditures of funds under this section. The comptroller may make payments in anticipation of receipts and shall establish procedures for reconciling overpayments and underpayments from said account. The secretary shall account for revenue and expenditure activity within said account.

**SECTION 172.** Said chapter 118G is hereby further amended by adding the following section:-

Section 27. (a) For the purposes of this section, the following words shall have the following meanings:

"Assessment," the user fee imposed pursuant to this section.

"Intermediate care facility for the mentally retarded or ICF/MR," a privately or publicly operated intermediate care facility for the mentally retarded.

"Community based residence," a privately or publicly operated community based residence serving individuals with mental retardation licensed or certified in accordance with section 15 of chapter 19B.

"Bed day," a day of services provided to an individual living in an intermediate care facility for the mentally retarded or a community based residence serving individuals with mental retardation.

(b) Each intermediate care facility for the mentally retarded and each community-based residence serving individuals with mental retardation shall pay an assessment per bed day. The assessment shall be implemented as a broad-based health care related fee as defined in 42 U.S.C. Sec. 1396b(w)(3)(B). The assessment shall be imposed at a uniform rate and shall be sufficient in the aggregate to generate an amount equal to six per cent of the total gross revenues generated by all such facilities in each fiscal year. The assessment shall be paid to the division at least quarterly. The division may promulgate regulations that authorize the assessment of interest on any unpaid liability at a rate not to exceed an annual rate of 18 per cent and late fees at a rate not to exceed 5 per cent per month. The receipts from the assessment, any federal financial participation received by the commonwealth as a result of expenditures funded by these assessments and interest thereon shall be credited to an account established within the Uncompensated Care Trust Fund.

(c) The commissioner shall prepare a form on which each ICF/MR and each community based residence shall report its total bed days and shall calculate the assessment due. The commissioner shall distribute the forms to each intermediate care facility for the mentally retarded and each community based residence for individuals with mental retardation at least annually. The failure to distribute the form or the failure to receive a copy of the form shall not stay the obligation to pay the assessment by the date specified in this section. The division may require additional reports, including but not limited to monthly census data, as it deems necessary to monitor collections and compliance.

(d) The division shall have the authority to inspect and copy the records of an ICF/

MR or community residence for the purposes of auditing its calculation of the assessment. In the event that the division determines that an ICF/MR or a community-based residence has either overpaid or underpaid the assessment, the division shall notify the ICF/MR or the community based residence of the amount due or refund the overpayment. The division may impose per diem penalties if an ICF/MR or a community-based residence fails to produce documentation as requested by the division.

(e) In the event that an ICF/MR or a community based residence is aggrieved by a decision of the division as to the amount due, the ICF/MR or the community based residence may file an appeal to the division of administrative law appeals within 60 days of the notice of underpayment or the date the notice was received, whichever is later. The division of administrative law appeals shall conduct each appeal as an adjudicatory proceeding pursuant to chapter 30A, and an ICF/MR or a community based residence aggrieved by a decision of the division of administrative law appeals shall be entitled to judicial review pursuant to section 14 of said chapter 30A.

(f) The division shall establish by regulation appropriate mechanisms for enforcing the provisions of this section. Such enforcement may include notification to the department of mental retardation to take appropriate actions, including the revocation of licensure or certification for failure to remit delinquent fees.

(g) The division, in consultation with the department of mental retardation and the division of medical assistance, shall promulgate regulations necessary to implement this section.

**SECTION 173.** The first paragraph of section 32 of said chapter 121B, as amended by section 366 of chapter 26 of the acts of 2003, is hereby further amended by inserting after the third sentence the following four sentences:- In no instance shall a tenant household pay a rental fee of less than \$5 per household, provided that exceptions to payment of such minimum rent shall be allowed in accordance with regulations issued by the department. An authority shall grant an exemption from application of the minimum monthly rent to any resident unable to pay such amount because of severe financial hardship, which shall include situations in which the family is awaiting an eligibility determination for an application for any federal, state, or local assistance program, the tenant would be evicted as a result of the imposition of the minimum rent requirements, the income of the tenant has decreased because of changed circumstances, including involuntary loss of employment, the occurrence of a death in the household, and such other severe financial hardship situations as may be determined by the housing authority. If a resident requests a hardship exemption and the authority reasonably determines the hardship to be of a temporary nature, an exemption shall not be granted during the 90 day period beginning upon the day in which the request for exemption is made to the authority. A resident may not be evicted during such 90 day period for nonpayment of rent. In such a case, if the resident thereafter demonstrates that the financial hardship is of a long-term nature, the authority shall retroactively exempt the resident from the applicability of the minimum rent requirements for such 90 day period.

**SECTION 174.** Section 2 of chapter 128C of the General Laws, as appearing in the 2002 Official Edition, is hereby amended by striking out, in lines 156 to 161, inclusive, the words "Norfolk county, in each of those racing seasons is licensed to and actually conducts not less than a total of 150 racing performances taking place on at least 150 racing days; and provided, further, that the harness horse racing licensee in Norfolk county may simulcast live races in any racing season provided that it conducts at least 1,100 live harness" and inserting in place thereof the following words:- Suffolk county and the harness horse racing licensee in Norfolk county, in each of those racing seasons is licensed to and actually conducts not less than a total of 150 racing performances taking place on at least 150 racing days; and provided, further, that the running horse racing meeting licensee in Suffolk county and the harness horse racing licensee in Norfolk county may simulcast live races in any racing season provided that each racing meeting licensee conducts at least 1,100 live.

**SECTION 175.** Chapter 131A of the General Laws is hereby amended by adding the following section:-

Section 7. The director may establish fees for environmental review and assessment pursuant to this chapter, the amount of which shall be determined in accordance with section 3B of chapter 7. Monies received by the commonwealth from fees collected under this chapter shall be credited to the Natural Heritage and Endangered Species Fund, established by section 35D of chapter 10.

**SECTION 176.** Section 1B of chapter 132A of the General Laws, as appearing in section 393 of chapter 26 of the acts of 2003, is hereby amended by striking out the second sentence.

**SECTION 177.** The sixth paragraph of section 12 of chapter 138 of the General Laws, as appearing in the 2002 Official Edition, is hereby amended by striking out the last sentence and inserting in place thereof the following sentence:- The licensing authority shall not decrease the hours during which sales of such alcohol beverages may be made by a licensee until after a public hearing concerning the public need for such decrease; provided, however, that a licensee affected by any such change shall be given 2 weeks notice of the public hearing; provided further, that a local licensing authority, subject to the approval of the commission, may grant a license notwithstanding section 17 to sell wine for consumption on the winery premises to a winegrower authorized to operate a farmer-winery under section 19B, to sell malt beverages for consumption on the brewery premises to a farmer-brewer authorized to operate a farmer-brewer under section 19C and to sell spirits for consumption on the distillery premises to a farmer-distiller authorized to operate a farmer-distillery under section 19E; and provided further, that such licensees may sell for on premises consumption wines, malt beverages and spirits produced by the winery, brewery or distillery or produced for the winery, brewery or distillery and sold under the winery, brewery or distillery brand name.

**SECTION 178.** Section 15 of said chapter 138, as so appearing, is hereby amended by inserting after the word "commonwealth", in line 22, the following words:- , or participate in decisions regarding the purchasing of alcoholic beverages or the purchasing of insurance

---

**Chap. 149**

or accounting or bookkeeping services, or receive any percentage or fee derived from gross revenues in exchange for management assistance, or participate in any other action designed to effect common results of more than 3 licensees under this section.

**NO SECTION 179.**

**SECTION 180.** The first paragraph of section 18 of said chapter 138, as amended by section 413 of chapter 26 of the acts of 2003, is hereby further amended by striking out the last sentence and inserting in place thereof the following:-

The annual license fee for a license to sell and import wines and malt beverages only issued under this section shall be computed based on the gallonage sold as follows: 7,500 gallons or less per annum-thirty five hundred dollars; more than 7,500 and less than 10,000 gallons per annum-four thousand dollars; and more than 10,000 gallons per annum-five thousand dollars.

Every applicant for such a license shall, at the time of filing an application, pay a license fee based on a reasonable estimate of the amount of wine and malt beverages to be sold or imported during the year covered by the license. Persons holding such licenses shall report annually at the end of the year covered by the license the amount of wine and malt beverages sold or imported during such year. If the total amount of such wine and malt beverages exceeds the amount permitted by the fee already paid, the licensee shall pay whatever additional fee is owing under this section.

**SECTION 181.** Said section 18 of said chapter 138 is hereby further amended by adding the following paragraph:-

It shall be unlawful for any licensee under this section to purchase alcoholic beverages from any source other than the primary American source of supply unless authorized by the primary American source of supply. "Primary American source of supply" shall mean the distiller, bottler, brewer, vintner, brand owner, or designated agent of the distiller, bottler, brewer, vintner, or brand owner.

**SECTION 182.** Section 64 of chapter 143 of the General Laws, as appearing in the 2002 Official Edition, is hereby amended by inserting after the word "inspector", in line 4, the following words:- ; provided, however, that elevators in owner-occupied single family residences shall be inspected and tested at intervals of not less than five years.

**SECTION 183.** Section 1 of chapter 151A of the General Laws is hereby amended by striking out paragraph (e ½), as amended by section 580 of chapter 26 of the acts of 2003, and inserting in place thereof the following paragraph:-

(e½) "Commissioner", the director of workforce development pursuant to chapter 23H.

**SECTION 184.** Said section 1 of said chapter 151A is hereby further amended by striking out paragraph (g), as amended by section 581 of said chapter 26, and inserting in place thereof the following paragraph:-

(g) "Department", the division of unemployment assistance within the department of workforce development.

**SECTION 185.** Section 58 of said chapter 151A is hereby amended by striking out paragraph (g), as appearing in section 583 of said chapter 26, and inserting in place thereof the following paragraph:-

(g) Funds from this account shall be used to support the administration and operation of this chapter, and shall be used by the department of workforce development for the space, personnel and infrastructure required to maintain walk-in services, including the provision of general information, application assistance, claims information and orientation under this chapter.

**SECTION 186.** Section 61 of said chapter 151A is hereby amended by striking out the second paragraph, as amended by section 584 of said chapter 26, and inserting in place thereof the following paragraph:-

For the purpose of maintaining free employment offices, the commissioner may enter into an agreement with a city or town and, as part of any such agreement, the commissioner may accept monies, services or other quarters for the purposes of the employment service accounts.

**SECTION 187.** Subsection (a) of section 62A of said chapter 151A is hereby amended by striking out the words "unemployment assistance shall contract with the department of workforce development to", inserted by section 585 of said chapter 26, and inserting in place thereof the following words:- unemployment assistance shall.

**SECTION 187A.** Said section 62A of said chapter 151A is hereby further amended by striking out subsection (b), as amended by section 586 of said chapter 26, and inserting in place thereof the following subsection:-

(b) In addition to such access by telephone to offices of the division, the deputy director shall maintain walk-in service, including the provision of general information, application assistance, claims information and orientation.

**SECTION 188.** The first paragraph of section 14 of chapter 175 of the General Laws, as amended by section 444 of chapter 26 of the acts of 2003, is hereby further amended by inserting after the twenty-second clause the following clause:-

For each duplicate of a license issued under any section of this chapter.

**SECTION 189.** The third paragraph of section 47C of said chapter 175, as appearing in the 2002 Official Edition, is hereby amended by striking out the last sentence and inserting in place thereof the following sentence:- Reimbursement of costs for such services shall be part of a basic benefits package offered by the insurer or a third party, with a maximum benefit of \$5,200 per year per child and an aggregate benefit of \$15,600 over the total enrollment period.

**SECTION 190.** The third paragraph of section 8B of chapter 176A of the General Laws, as so appearing, is hereby amended by striking out the last sentence and inserting in place thereof the following sentence:- Reimbursement of costs for such services shall be part of a basic benefits package offered by the insurer or a third party, with a maximum benefit

of \$5,200 per year per child and an aggregate benefit of \$15,600 over the total enrollment period.

**SECTION 191.** The third paragraph of section 4C of chapter 176B of the General Laws, as so appearing, is hereby amended by striking out the last sentence and inserting in place thereof the following sentence:- Reimbursement of costs for such services shall be part of a basic benefits package offered by the insurer or a third party, with a maximum benefit of \$5,200 per year per child and an aggregate benefit of \$15,600 over the total enrollment period.

**SECTION 192.** The second paragraph of section 4 of chapter 176G of the General Laws, as so appearing, is hereby amended by striking out the last sentence and inserting in place thereof the following sentence:- Reimbursement of costs for such services shall be part of a basic benefits package offered by the insurer or a third party, with a maximum benefit of \$5,200 per year per child and an aggregate benefit of \$15,600 over the total enrollment period.

**SECTION 193.** Paragraph (a) of section 6 of chapter 211D of the General Laws, as so appearing, is hereby amended by striking out, in line 32, the word "assigned." and inserting in place thereof the following:- assigned;

(vi) notwithstanding any special or general law to the contrary, the division shall be assigned in any civil or criminal matter described in paragraph (b) where the chief counsel determines in writing that insufficient numbers of qualified attorneys are available for assignment by the private counsel division in courts located in Hampden, Hampshire, Franklin or Berkshire counties.

**SECTION 194.** Said chapter 211D is hereby further amended by inserting after section 6A the following section:-

Section 6B. Not more than 1 counsel assigned or appointed under section 5, 6 or 6A shall be paid for representation of a party in civil proceedings pending in any trial court under paragraph C of section 23, section 24 or 29B or sections 39E to 39I, inclusive, of chapter 119 or section 3 of chapter 210. The chief counsel of the committee for public counsel services may permit an exception to this provision in extraordinary circumstances, such as the pendency of separate actions in distant counties on behalf of a client.

**SECTION 195.** Said chapter 211D, as inserted by section 452 of chapter 26 of the acts of 2003, is hereby amended by striking out section 2½ and inserting in place thereof the following section:-

Section 2½. Notwithstanding any general or special law to the contrary, a person claiming indigency under the provisions of section 2 must execute a waiver authorizing the court's chief probation officer, or his designee, to obtain the person's wage and tax information from the department of revenue, and any other information from the department of transitional assistance, the department of medical assistance, and the registry of motor vehicles that the court may find useful in verifying the person's claim of indigency. Said waiver shall authorize the chief probation officer, or his designee, to conduct any further re-assessment required by this section.

It shall be the responsibility of the chief probation officer assigned to each court to ensure that a defendant claiming to be indigent meets the definition of indigency under section 2. A defendant seeking appointment of counsel shall be interviewed by the chief probation officer or his designee before the appointment of counsel. The person conducting the interview shall explain to the defendant (1) the definition of indigency, (2) the process used to verify his information with other state agencies, and (3) the consequences of misrepresenting his financial information in applying for the appointment of counsel. The person conducting the interview shall prepare a written indigency intake report that shall record the results of the interview and his recommendation on whether or not the defendant is indigent. The defendant and the person conducting the interview shall sign the indigency intake report. In signing the report, the defendant shall certify under the pains and penalties of perjury that the information contained therein is true and that he has not concealed any information relevant to his financial status. All statements contained in the report shall be deemed material statements. The completed report shall be presented to a judge who may adopt or reject the recommendations in the report, either in whole or in part.

Any appointment of counsel by the court is at all times subject to said verification of indigency by the chief probation officer assigned to each court. Not later than 60 days after the appointment of counsel, said chief probation officer or his designee shall complete a re-assessment of the defendant's financial circumstances to ensure that the defendant continues to meet the definition of indigency. In preparing his re-assessment, the chief probation officer or his designee may access wage and tax information in the possession of the department of revenue and such other information relevant to the verification of indigency in the possession of the department of transitional assistance, the department of medical assistance and the registry of motor vehicles. Said departments shall provide such information to the chief probation officer or his designee upon request. Upon completion of his re-assessment, the chief probation officer shall prepare a written report of his findings. The chief probation officer shall sign the report, certifying that the defendant either continues to meet or does not continue to meet the definition of indigency. The report shall be filed with the case papers and shall be presented to the judge presiding at the defendant's next court appearance. If, upon receipt of the report, a judge finds that the defendant no longer meets the definition of indigency, he shall revoke the appointment of counsel and allow the defendant a reasonable continuance to obtain new counsel. Not later than 6 months after the appointment of counsel, and every 6 months thereafter, the chief probation officer or his designee shall conduct a further re-assessment of the defendant's financial circumstances to ensure that he continues to meet the definition of indigency and shall prepare, sign and file a written report certifying that the defendant either continues to meet, or does not continue to meet, that definition of indigency.

If a criminal defendant is charged with a second or further offense while continuing to be represented by court-appointed counsel for a previously charged offense, the court in its discretion shall determine whether any further determination of indigency, other than the

60-day and bi-annual re-assessments required by the defendant's representation for the first offense, need be undertaken.

Upon completion of any said re-assessments, the chief probation officer shall prepare a written report of his findings. The chief probation officer shall sign the report, certifying that the defendant either continues to meet or does not continue to meet the definition of indigency. The report shall be filed with the case papers and shall be presented to the judge presiding at the defendant's next court appearance. If, upon receipt of the report, a judge finds that the defendant no longer meets the definition of indigency, he shall revoke the appointment of counsel and allow the defendant a reasonable continuance to obtain new counsel.

If the court finds that a person has materially misrepresented or omitted information concerning his property or assets for purposes of determining indigency, and that said person does not meet the definition of indigency, the court shall immediately terminate any assignment or appointment of counsel made under chapter 211D of the General Laws and shall assess costs of not less than \$500 against said person.

A person provided counsel under this chapter shall be assessed a counsel fee of \$150, which the court may waive only upon determining that the defendant is unable to pay. If, upon reviewing the chief probation officer's report on the 60-day re-assessment of the defendant's indigency, the court concludes that the defendant is able to pay the \$150 counsel fee of which he obtained a waiver, the court shall invalidate the waiver and re-impose the \$150 counsel fee.

The court may authorize a defendant to perform community service in lieu of payment of the counsel fee. A defendant seeking to work off his counsel fee in community service shall perform 10 hours of community service for each \$100 he owes in legal counsel fees. Notwithstanding any general or special law, rule or regulation to the contrary, a criminal matter shall not be terminated and the defendant shall not be discharged if the defendant owes any portion of the legal counsel fee imposed by this section. The clerk shall not release any bail posted on such criminal matter until the legal counsel fee is satisfied in accordance with this chapter.

The clerk of the court shall, within 60 days of appointment of counsel, report to the departments of transitional assistance, medical assistance and revenue and the registry of motor vehicles the amount of any legal counsel fee owed by the defendant under this chapter. The department of revenue shall intercept the fee from tax refunds due to persons who have not paid it. The departments of transitional assistance and medical assistance shall deduct the fee in weekly or monthly increments from the benefit payments of persons who have not paid it. The registrar of motor vehicles shall place a lien in the amount of any portion of the legal counsel fee owed by the defendant upon the title of any motor vehicle owned in whole or in part by him. The lien shall be released only upon notification from the clerk of the court that the fee has been collected or worked off in community service.

**SECTION 196.** Section 8 of chapter 218 of the General Laws is hereby amended

by striking out the first sentence as amended by section 458 of said chapter 26, and inserting in place thereof the following sentence:- Each district court shall have a clerk and the central division of the Boston municipal court department shall have one clerk as provided in section 52A.

**SECTION 197.** Section 10 of said chapter 218, as appearing in the 2002 Official Edition, is hereby amended by striking out, in line 24, the word "Worcester." and inserting in place thereof the following:- Worcester;

third district court of Southern Worcester, provided, that said position shall only be designated to a trial court employee in said court currently performing the duties and functions of an assistant clerk and shall not be construed as adding any additional positions to the trial court.

**SECTION 198.** The fifteenth paragraph of said section 10 of said chapter 218, as most recently amended by section 465 of chapter 26 of the acts of 2003, is hereby further amended by inserting after the line reading "third district court of eastern Middlesex;" the following line:- the district court of Newton;.

**SECTION 199.** Section 22 of said chapter 218 is hereby amended by striking out, in line 8, as appearing in the 2002 Official Edition, the word "registered" and inserting in place thereof the following words:- first class.

**SECTION 200.** Said chapter 218 is hereby further amended by striking out section 35A, as so appearing, and inserting in place thereof the following section:-

Section 35A. If a complaint is received by a district court, or by a justice, associate justice or special justice thereof, or by a clerk, assistant clerk, temporary clerk or temporary assistant clerk thereof under section 32, 33 or 35, as the case may be, the person against whom such complaint is made, if not under arrest for the offense for which the complaint is made, shall, in the case of a complaint for a misdemeanor or a complaint for a felony received from a law enforcement officer who so requests, and may, in the discretion of any said officers in the case of a complaint for a felony which is not received from a law enforcement officer, be given an opportunity to be heard personally or by counsel in opposition to the issuance of any process based on such complaint unless there is an imminent threat of bodily injury, of the commission of a crime, or of flight from the commonwealth by the person against whom such complaint is made. The court or said officers referred to above shall consider the named defendant's criminal record and the records contained within the statewide domestic violence record keeping system maintained by the office of the commissioner of probation in determining whether an imminent threat of bodily injury exists. Unless a citation as defined in section 1 of chapter 90C has been issued, notice shall also be given of the manner in which he may be heard in opposition as provided herein.

The court, or said officer thereof, may upon consideration of the evidence, obtained by hearing or otherwise, cause process to be issued unless there is no probable cause to believe that the person who is the object of the complaint has committed the offense charged.

The term district court as used in this section shall include the Boston municipal court department and the juvenile court department.

**SECTION 201.** Said chapter 218 is hereby further amended by inserting after section 52 the following section:-

Section 52A. The central division of the Boston municipal court department shall have one clerk for both criminal and civil business. The position of clerk for civil business shall be abolished when said position becomes vacant and the duties of such clerk shall be assumed by the clerk for criminal business who shall be hereinafter the one clerk for the said central division of the Boston municipal court department. The first assistant clerk for criminal business shall hereinafter serve as the first assistant clerk of the central division of the Boston municipal court department. The person currently serving as acting clerk for civil business shall hereinafter serve as the second assistant clerk of the central division of the Boston municipal court department and shall be paid at the same rate of compensation that he now receives. Any reference in any general or special law to a clerk of the Boston municipal court for civil business shall be construed to refer to the one clerk of the central division of the Boston municipal court department as proscribed herein.

**SECTION 202.** Said chapter 218 is hereby further amended by striking out section 53, as most recently amended by section 481 of chapter 26 of the acts of 2003, and inserting in place thereof the following section:-

Section 53. In the central division of the Boston municipal court department, there shall be one clerk and the same number of assistant clerks of said court as were authorized in statute on January first, two thousand three. The assistant clerks shall be appointed by the clerk, subject to the approval of the chief justice for administration and management with respect to compliance with the personnel standards promulgated under section eight of chapter two hundred and eleven B, and the clerk shall be responsible for the doings of his assistants, and may remove them at his pleasure. The salary of the clerk shall be seventy-five and forty-seven hundredths per cent of the salary of the chief justice of the department, and shall be paid, subject to appropriation, by the commonwealth. The salaries of the assistant clerks shall be seventy-seven per cent of the salary of the clerk, and shall be paid, subject to appropriation, by the commonwealth.

The clerk and assistant clerks shall devote their entire time during ordinary business hours to their respective duties and shall not, directly or indirectly, engage in the practice of law.

Each assistant clerk of said court appointed to such position prior to January first, nineteen hundred and eighty-seven and serving continuously thereafter, shall be entitled to thirty days vacation and thirty days sick leave in each calendar year. Each such assistant clerk may accumulate vacation leave and sick leave not used in any such year; provided, however, that the number of vacation days so accumulated shall not exceed sixty and the total amount of sick leave so accumulated shall not exceed one hundred and eighty days; and provided, further, that no additional such days shall be accumulated on or after said January first except in accordance with the policies and procedures established by the chief justice

for administration and management pursuant to section eight of chapter two hundred and eleven B. All other clerks and assistant clerks of said court shall be entitled to vacation leave and sick leave in accordance with the policies and procedures established by the chief justice for administration and management pursuant to said section eight.

Assistant clerks appointed under authority of this paragraph who have held said appointment for three consecutive years shall hold office during good behavior, but subject to applicable retirement laws, and may be removed by the clerk for cause shown, subject to the procedures authorized by section eight of chapter two hundred and eleven B.

The clerk may designate such employees in his office as in his judgment may be necessary for the convenience of the public, as deputy assistant clerks of said court who shall have the same authority to administer oaths as the assistant clerks of said court.

**SECTION 203.** Said chapter 218 is hereby further amended by striking out section 53A, inserted by section 482 of said chapter 26, and inserting in place thereof the following section:-

Section 53A. In case of the absence, death or removal of a salaried assistant clerk of the central division of the Boston municipal court department, the clerk of said court may, subject to the approval of the chief justice, appoint a temporary assistant clerk, to act until such assistant clerk resumes his duties or until the vacancy is filled. -

**SECTION 204.** Said chapter 218 is hereby further amended by striking out section 56, as appearing in the 2002 Official Edition, and inserting the following section:-

Section 56. The clerk shall, on or before the tenth day of each month, account for and pay over to the collector of the city of Boston or to the state treasurer, as the case may be, the balance due and payable at the end of the preceding month of all money received by them payable by law to the city of Boston or to the commonwealth, and shall render to said officers a detail account thereof under oath. Violation of this section shall be punished by a fine of not more than one hundred dollars.

**SECTION 205.** Section 75B of said chapter 218 is hereby amended by striking out the words "for criminal business".

**SECTION 206.** Chapter 222 of the General Laws is hereby amended by adding the following section:-

Section 12. Notwithstanding any general law, rule, regulation or order to the contrary, attorneys-at-law and counselors-at-law as well as paralegals, legal secretaries and other legal staff, who by virtue of their employment perform notary duties shall be exempt from maintaining a journal of their notary transactions.

**SECTION 207.** Chapter 231 of the General Laws is hereby amended by inserting after section 60J the following section:-

Section 60K. In any action for malpractice, negligence, error, omission, mistake or unauthorized rendering of professional services, other than actions brought under section 2 of chapter 229, against a provider of health care, in which a verdict is rendered or a finding made or an order for judgment made for pecuniary damages for personal injuries to the plaintiff or for consequential damages, there shall be added by the clerk of the court to the

amount of damages interest thereon, at a rate to be determined as set forth below rather than the rate specified in section 6B of chapter 231, from the date of the commencement of the action even though such interest brings the amount of the verdict or finding beyond the maximum liability imposed by law. For all actions commenced after the effective date of this act, the rate of interest to be applied by the clerk shall be at a rate equal to the weekly average 1-year constant maturity Treasury yield plus 4 per cent, as published by the Board of Governors of the Federal Reserve System for the calendar week preceding the date of judgment. At no point shall the rate of interest established by this section exceed the rate of interest set forth in said section 6B of chapter 231.

**SECTION 208.** Section 2A of chapter 262 of the General Laws is hereby repealed.

**SECTION 209.** Section 4D of said chapter 262 is hereby repealed.

**SECTION 210.** Section 25 of chapter 268A of the General Laws, as appearing in the 2002 Official Edition, is hereby amended by inserting after the word "him", in line 28, the following words:- , subject to section 15 of chapter 32. The employer of a person so suspended shall immediately notify the retirement system of which the person is a member of the suspension and shall notify the retirement board of the outcome of any charges brought against the individual.

**SECTION 211.** Section 98A of chapter 272 of the General Laws, as so appearing, is hereby amended by striking out, in lines 19 to 22, inclusive, the words "; provided further, that in the case of a deaf or hearing handicapped person, or other physically handicapped person, such person carries and displays upon demand, written evidence that the dog accompanying him is a dog guide".

**SECTION 212.** Chapter 276 of the General Laws is hereby amended by inserting after section 99D the following section:-

Section 99E. (a) The commissioner of probation shall enter into an interagency service agreement with the department of revenue to verify income data and other information relevant to the determination of indigency of recipients of counsel pursuant to section 2 of chapter 211D.

(b) The commissioner of probation shall enter into an interagency service agreement with the department of transitional assistance to verify income data and other information relevant to the determination of indigency of recipients of counsel pursuant to section 2 of chapter 211D.

(c) The commissioner of probation shall enter into an interagency service agreement with the department of medical assistance to verify income data and other information relevant to the determination of indigency of recipients of counsel pursuant to section 2 of chapter 211D.

(d) The commissioner of probation shall enter into an interagency service agreement with the registry of motor vehicles to verify the statements on motor vehicle ownership or nonownership by recipients of counsel pursuant to section 2 of chapter 211D.

**SECTION 213.** Section 70C of chapter 277 of the General Laws, as appearing in the 2002 Official Edition, is hereby amended by striking out, in line 5, the figure "23".

**SECTION 213A.** The first sentence of section 4 of chapter 113 of the acts of 1828 is hereby amended by striking out the word "twelve" and inserting in place thereof the following words:- not more than 24;.

**SECTION 213B.** Said first sentence of said section 4 of said chapter 113 of the acts of 1828 is hereby further amended by striking out the word "eight" and inserting in place thereof the following word:- trustees.

**SECTION 214.** Section 1 of chapter 294 of the acts of 1916 is hereby amended by striking out the first 3 sentences, as most recently amended by chapter 66 of the acts of 1990, and inserting in place thereof the following sentence:- There shall be an unpaid commission, to be known as the Lake Quinsigamond commission consisting of the chief of police of the city of Worcester, ex officio, one member of the Worcester conservation commission to be appointed by the city manager, one member of the Shrewsbury conservation commission, to be appointed by the moderator of said town, the chief of police of the town of Shrewsbury, ex officio, and one member of the Grafton conservation commission to be appointed by the moderator of said town; and 4 members who shall be either residential landowning abutters on Lake Quinsigamond or reside within the area of Lake Quinsigamond, and who have demonstrated an interest regarding water quality, fishing, boating and other recreational activities and environmental, wildlife and habitat matters on said lake, who may represent the city of Worcester and the towns of Grafton and Shrewsbury; one of whom shall be appointed by the town manager of Grafton, one of whom shall be appointed by the town manager of Shrewsbury, one of whom shall be appointed by the city manager of Worcester and one of whom shall be appointed by majority vote of the preceding 3 members.

**SECTION 215.** Section 1 of chapter 74 of the acts of 1945, is hereby amended by striking out the first and second paragraphs and inserting in place thereof the following paragraph:-

For purposes of this act, the term "board" shall mean a board composed of the attorney general, the state treasurer, the state auditor and the director of accounts, or their designees.

**SECTION 216.** Paragraph (a) of section 12 of chapter 372 of the acts of 1984, is hereby amended by striking out the fifth sentence, as amended by section 1 of chapter 83 of the acts of 2001, and inserting in place thereof the following sentence:- The aggregate principal amount of all bonds issued under authority of this act shall not exceed \$5,800,000,000 outstanding at any one time; provided, however, that bonds for the payment of redemption of which, either at or prior to maturity, refunding bonds shall have been issued shall be excluded in the computation of outstanding bonds.

**SECTION 217.** Section 16 of said chapter 372 is hereby amended by striking out the fourth sentence, as amended by section 2 of said chapter 83, and inserting in place thereof

the following sentence:- The aggregate principal amount of all bonds issued under the authority of this act shall not exceed \$5,800,000,000 outstanding at any one time; provided, however, that bonds for the payment of redemption of which, either at or prior to maturity, refunding bonds shall have been issued shall be excluded in the computation of outstanding bonds.

**SECTION 218.** Subsection (j) of section 110 of chapter 5 of the acts of 1995 is hereby amended by striking out the first paragraph and inserting in place thereof the following three paragraphs:-

The department shall administer a program, to be known as the work program, for families that are not exempt under section (e) but have received assistance for the program of transitional aid to families with dependent children for 60 days. The program shall require that the head of household in each such family, or both parents in a 2-parent family, shall participate in work-related activities for 20 hours each week if the youngest child of record is between the age of 2 and the age at which full time schooling is mandatory, for 24 hours each week if the youngest child of record is between the age at which full time schooling is mandatory and age 9, and for 30 hours each week if the youngest child of record is 9 years of age or older;

The requirement may be met by working in a job for which compensation is paid; by a parent or head of household who is in emergency shelter and complying with housing search requirements; by working full time in the full employment program established by subsection (l); by participating in community service pursuant to subsection (k); or by participating in education and training programs that meet the requirements of the federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996 or any successor thereto, including activities required by or necessary for the successful completion of any such education and training program. At the discretion of the commissioner, recipients subject to the work requirement who fail, without good cause, to meet the requirement shall not receive assistance.

To the extent permissible under federal law or, where not permissible under federal law, subject to approval of the federal department of health and human services, the department shall determine that good cause exists when a recipient is not in compliance with the work program or the terms of an employment development plan, and that the noncompliance is due to lack of appropriate and available child care, lack of affordable and reliable transportation, housing search, lack of an available and appropriate community service site identified by the department, or illness or disability or other reasons established by the department. For purposes of this paragraph, a determination as to whether an available child care slot is appropriate shall take into consideration factors that the office of child care services recommends be considered or that a reasonable and responsible parent would consider in deciding whether a child care slot is appropriate, including the time required to travel to and from the provider and the recipient's home, work or other activities. Before determining that a recipient has failed to comply with the work program or the terms

of an employment development plan without good cause, the department shall review all good cause criteria with the recipient to determine if good cause exists.

**SECTION 219.** The second paragraph of subsection (j) of section 110 of chapter 5 of the acts of 1995 is hereby amended by striking out, in lines 1, 7, 11 and 12, the word "twenty" and inserting in place thereof, in each instance, the following words:- the required.

**SECTION 220.** Section 177 of chapter 43 of the acts of 1997 is hereby repealed.

**SECTION 221.** Section 6 of chapter 46 of the acts of 1997 is hereby repealed.

**SECTION 222.** Chapter 194 of the acts of 1998 is hereby amended by striking out section 317 and inserting in place thereof the following section:-

Section 317. There shall be established and set up on the books of the commonwealth a separate trust to be known as the Natural Resource Damages Trust to be administered and expended by the executive office of environmental affairs. Expenditures may be made from the trust account, without further appropriation, for the purposes of funding natural resource restoration, replacement or acquisition of equivalent natural resources, the development of natural resource damages claims, including, but not limited to, investigation of such claims and enforcement of settlements. Expenditures may also be made from the trust account, without further appropriation, for the purposes of funding other actions related to natural resources damage including, but not limited to, natural resource damage assessment, natural resource damage recovery, natural resource law enforcement and, if necessary, the costs of personnel and administration of studies or related activities, including grants to public and nonpublic entities, conducted pursuant to the secretary's authority as trustee for natural resources pursuant to section 5 of chapter 21E of the General Laws, sections 23 to 27, inclusive, of chapter 130 of the General Laws, section 42 of chapter 131 of the General Laws, section 9607(f) of Title 42 of the United States Code, section 1321 of Title 33 of the United States Code, section 2706 of Title 33 of the United States Code or any other relevant and appropriate authority. The trust shall retain all interest earned on sums deposited in the trust. The trust may receive funds as may be appropriated from time to time, as well as gifts and grants of money or other contributions from any source, either public or private, and settlements, judgments, or fines or penalties not designated by law for other specific purposes, to be expended within the purposes of the trust. The fund may not receive any fees that have been collected by an agency within the executive office of environmental affairs.

**SECTION 223.** Section 6 of chapter 55 of the acts of 1999 is hereby repealed.

**SECTION 224.** Section 47 of chapter 159 of the acts of 2000 is hereby repealed.

**SECTION 224A.** Section 497 of said chapter 159 is hereby repealed.

**SECTION 225.** Section 2 of chapter 28 of the acts of 2002 is hereby amended by striking out, in lines 3 and 4, the words "a period not to exceed 2 years after the effective date of this act" and inserting in place thereof the following words:- the duration of any project that has begun construction, repair, renovation, remodeling, equipping, furnishing or partial or complete demolition before July 1, 2004.

**SECTION 226.** Item 2000-2013 of section 2 of chapter 236 of the acts of 2002 is hereby amended by inserting after the word "Woburn", in line 45, the following words:- ; provided, further, that, notwithstanding any rules or regulations of the department, not less than \$1,750,000 shall be expended for the acquisition of the Dunn property, so-called, in the town of West Newbury, however, in the event that the town expends its own funding for acquisition of said property, it will be reimbursed; and by striking out the figure "\$21,250,000" and inserting in place thereof the following figure:- \$23,000,000.

**SECTION 227.** Item 2100-2011 of said section 2 of said chapter 236 is hereby amended by striking out, in lines 82 to 85, inclusive, the words "; provided further, that \$1,750,000 shall be expended for the acquisition of the Dunn property, so-called, in the town of West Newbury,- and by striking out the figure "\$46,425,000" and inserting thereof the following figure:- \$44,675,000

**SECTION 228.** Item 2840-2016 of section 2 of said chapter 236 is hereby amended by striking out the words "; provided further, that \$200,000 shall be expended for renovation of the Connors pool in the city of Waltham" and inserting in place thereof the following:- provided further, that \$1,200,000 shall be expended for renovation of the Connors pool in the city of Waltham.

**SECTION 229.** Item 2840-2016 of section 2 of said chapter 236 is hereby amended by inserting at the end thereof the following words:- and provided further, that not less than \$5,000,000 shall be expended for the repair, renovation and reconstruction of Vietnam Veterans Memorial Pool in the city of Chelsea.

**SECTION 230.** Item 2100-2017 of section 2 of said chapter 236 is hereby amended by inserting after the word "Reading", in line 67, the following words:- ; provided, further, that \$275,000 shall be expended for a study, including a water table analysis, storm water runoff and other flood-related issues related to the Aberjona River in the Town of Winchester; provided further, that not less than \$250,000 shall be expended for volunteer water monitoring grants.

**SECTION 231.** Item 2200-2011 of section 2 of said chapter 236 is hereby amended by inserting after the words "city of Melrose" the following words:- provided further, that not less than \$250,000 shall be expended for the Town of Clinton for the purpose of conducting a Comprehensive Site Assessment of South Meadow Pond and the presence of leachate from the former Clinton Landfill site; provided further, that not less than \$100,000 shall be expended for the planning and development of a new regional water treatment plant for the Tri-Town Water Board, representing the towns of Braintree, Randolph, and Holbrook.

**SECTION 232.** Item 2200-2015 of section 2 of said chapter 236 is hereby amended by inserting after the word "Salem", in line 25, the following words:- provided, further, that \$500,000 shall be expended for the clean up of Lake Quannapowitt, its shoreline, bank, buffer zone, and land in the vicinity thereof and enhance its future access and use.

**SECTION 233.** Item 2820-2012 of section 2 of said chapter 236 is hereby amended

---

**Chap. 149**

by inserting after the words "development of such sites" the following words:- provided further, that \$75,000 shall be expended on an education and recreation pilot program in the Quaboag and Ware River Valley to be administered by the Massachusetts watershed coalition.

**SECTION 234.** Item 2840-2020 of section 2 of said chapter 236 is hereby amended by inserting after the word "properties" the following words:- ; provided, further, that not less than \$250,000 shall be expended for the Product Stewardship Institute within the University of Massachusetts in Lowell.

**SECTION 235.** Item 7066-2010 of section 2 of chapter 245 of the acts of 2002 is hereby amended by inserting after the word "grounds", in line 6, the following words:- ; provided that notwithstanding any other provision of this act or of any general or special law to the contrary, the commissioner of capital asset management and maintenance may enter into a lease for any portion of the former Attleboro high school in the city of Attleboro on such terms as the commissioner and the president of Bristol Community College may agree for its use by the college; provided further, that notwithstanding any other provision of this act, said commissioner may expend any bond funds authorized by this act to make any improvements to the former Attleboro high school as may be deemed appropriate or necessary by the commissioner and the president for the use of the building by Bristol Community College including, but not limited to, improving handicapped accessibility at the building.

**SECTION 235A.** Chapter 259 of the acts of 2002 is hereby amended by striking out section 4 and inserting in place thereof the following section:-

Section 4. The conveyance of the easement authorized in section 1 shall be for the nominal consideration of \$1.

**SECTION 236.** Section 61 of chapter 300 of the acts of 2002 is hereby repealed.

**SECTION 237.** Section 62 of said chapter 300 is hereby repealed.

**SECTION 238.** Item 8000-0010 of section 2 of chapter 26 of the acts of 2003 is hereby amended by adding after the words "description of these grants" the following:- ; provided further, that \$165,000 shall be provided for community policing in the Dudley Square section of Roxbury in the city of Boston; provided further, that not less than \$20,000 shall be provided for community policing in Revere.

**SECTION 239.** Section 548 of said chapter 26 is hereby amended by striking out subsection (n) and inserting in place thereof the following subsection:-

(n) The commissioner shall deposit the first \$25,000,000 of the proceeds realized from property dispositions under this section into the General Fund. After the deposit into the General Fund of said \$25,000,000, the next \$25,000,000 realized from surplus property disposition under this section shall be deposited into the Smart Growth Housing Trust Fund established in section 35BB of chapter 10 of the General Laws. Any proceeds realized in excess of the foregoing amounts, shall be deposited into the Commonwealth Stabilization Fund, established in section 2H of chapter 29 of the General Laws.

**SECTION 240.** Section 591 of said chapter 26 is hereby repealed.

**SECTION 241.** Section 632 of said chapter 26 is hereby repealed.

**SECTION 242.** Section 633 of said chapter 26 is hereby amended by striking out the second and third paragraphs and inserting in place thereof the following 2 paragraphs:-

Notwithstanding any general or special law to the contrary, the board of trustees for the university of Massachusetts system and the president of the university are hereby authorized and directed to establish a two year pilot program for out of state tuition retention at the flagship campus of the university at Amherst. The board shall promulgate regulations to allow the administration of the Amherst campus to retain, in fiscal years 2004 and 2005, all tuition paid by students who are not residents of Massachusetts. The regulations shall ensure that no resident of Massachusetts is denied admission to the Amherst campus as a result of the tuition retention pilot project. The board of trustees for the university system shall issue a report on the progress of said initiative no later than February 1, 2004 and 2005 to the house and senate chairs of the joint committee on education, arts, and humanities, and the chairs of the house and senate ways and means committees. The report shall include the number of out of state students attending the school, the amount of tuition revenue retained under the program, and any programs or initiatives funded with the retained revenue.

Notwithstanding any general or special law to the contrary, for employees of public higher education institutions who are paid from tuition retained pursuant to this section, fringe benefits shall be funded as if those employees' salaries were supported by state appropriations. This section shall apply only to fringe benefits associated with salaries paid from tuition retained by the boards of trustees of public higher education institutions as a direct result of the implementation of this section.

**SECTION 243.** Section 678 of said chapter 26 is hereby repealed.

**SECTION 244.** Section 703 of said chapter 26 is hereby repealed.

**SECTION 245.** Section 115 of chapter 46 of the acts of 2003 is hereby amended by inserting after the words "Essex County", each time they appear, the following words:- and Franklin County; and.

**SECTION 246.** Said section 115 of said chapter 46 is hereby further amended by adding the following sentence:- Any eligible employees of the Franklin sheriff's office must file their application with the board within 90 days of the effective date of this act.

**SECTION 247.** Section 2 of chapter 107 of the acts of 2003, is hereby amended by striking out the second sentence and inserting in place thereof the following sentence:- Any person currently on probation or parole as a result of such conviction, adjudication or other judicial determination, notwithstanding the date of such conviction, adjudication or judicial determination, who has not previously submitted a DNA sample to the department under said chapter 22E, shall submit a DNA sample to the department within 1 year after the effective date of this Act, or prior to the termination of his probation or parole, whichever occurs first.

**SECTION 248.** The department of conservation and recreation shall ensure that all

pools and aspects of all pools, parks and recreational facilities under the jurisdiction of the department shall remain open for the full summer season and that the beaches have their full amount of required maintenance and upkeep.

**SECTION 249.** The department of conservation and recreation shall expend all funds necessary up to \$10,000 for the repair, refurbish or the replacement of the William Reinstein Memorial Plaque on the Revere Beach Bandstand.

**SECTION 250.** Notwithstanding any general or special law to the contrary, state agencies and direct and subcontracted providers of health-related services, including purchase-of-service providers, financed from appropriation items for any state agency, shall maximize Title XIX and all other federal, state and private health insurance coverage available to offset costs to the commonwealth. The agencies or providers shall collect information from clients, or from the parent or guardian of a minor receiving services, necessary to determine the extent to which clients may be eligible for medical assistance benefits under chapter 118E of the General Laws or are beneficiaries of any health insurance policy. The agency or provider shall forward client information collected under this section to the division of medical assistance and such data shall only be used to match against available databases for the purpose of identifying all sources of potential payment for health services or health insurance coverage. As required or permitted by federal law, the division shall return the results of any such data matches to the originating agency, which shall take the appropriate action to ensure that costs to the commonwealth are minimized. Such actions shall include, but not be limited to, the agency or provider billing or re-billing all verified third-party sources. The executive office of administration and finance may grant an agency or provider an exemption from this section for good cause. The executive office of health and human services and the operational services division within the executive office of administration and finance shall review regulations, contracting forms, service delivery reports and uniform financial reporting requirements to determine what changes are necessary for the successful implementation of this section.

**SECTION 251.** Notwithstanding any general or special law to the contrary, the department of conservation and recreation shall expend or reimburse necessary funds to repair and replace failed, failing and damaged culverts in the Sales Creek drainage channel of the cities of Revere and Boston, which are owned by said department and which pose potential public health emergencies by preventing adequate drainage of a major watershed, and to repair and restore the damaged surfaces in the area surrounding the collapsed or undermined culverts that pose potential public safety emergencies due to unstable ground and surface areas under Tomasello Road and other areas, roadways and drives.

**SECTION 252.** Notwithstanding any general or special law to the contrary, retired employees of Franklin county and the surviving spouses of retired Franklin county employees who are eligible for group insurance coverage as provided under chapter 32B of the General Laws or who are insured under said chapter shall have such eligibility and coverage transferred to the jurisdiction of the group insurance commission effective on the

first day of the month following 90 days after the governor's signature and such persons shall cease to be eligible or insured under the provisions of said chapter 32B. The group insurance commission shall provide uninterrupted coverage for group life and accidental death and dismemberment insurance and group general or blanket insurance providing hospital, surgical, medical, dental and other health insurance benefits to the extent authorized under the provisions of chapter 32A of the General Laws. All questions relating to group insurance rights, obligations, costs and payments shall be determined by the group insurance commission, and shall include the manner and method for the payment on all required premiums applicable to all such coverage.

**SECTION 253.** There shall be a pilot program operated by the Barnstable county sheriff to determine the effectiveness of proposed improvements to the regional uniform protocol for sex offender management. Any individual who has been adjudicated as a sex offender, is being released from a department of correction facility or a house of correction, and intends to reside in Barnstable county must register with the sex offender registry board 90 days before his release and declare the municipality in which he plans to reside. The department of correction facility or house of correction releasing such a sex offender shall require that he be transferred to the house of correction in Barnstable county 30 days before his release. One critical objective of the pilot program shall be to insure, through the expanded use of regional hearing officers, that all sex offenders being released into Barnstable county municipalities are registered and classified before they are released from custody. The sex offender registry board, in consultation with the Barnstable county sheriff, shall expand the use of regional hearing officers in Barnstable county to insure the registration and classification of sex offenders before their release from custody. In registering, sex offenders must disclose their primary and any secondary post-release addresses.

The pilot program shall operate until June 30, 2005.

**SECTION 254.** Notwithstanding any general or special law to the contrary, any indebtedness authorized by a city or town before July 31, 2003, that was subject to the debt limit prescribed by section 10 of chapter 44 of the General Laws, that was in excess of 2.5 per cent of the equalized valuation of the city or town but not in excess of 5 per cent of the equalized valuation of the city or town, and that was not approved by the emergency finance board as was required by said section 10 prior to July 31, 2003, may be issued only if such indebtedness is approved by the municipal finance oversight board.

**SECTION 255.** Notwithstanding any general or special law to the contrary, the executive office of health and human services shall, by September 24, 2004, apply to the federal Centers for Medicare and Medicaid Services for a waiver from the provisions of 42 U.S.C. Sec. 1396b(w)(3)(B) for the nursing facility user fee created by section 25 of chapter 118 of the General Laws, to mitigate the impact of the user fee on nursing facilities that: (1) have 100 or fewer licensed beds; (2) were established and licensed in Massachusetts prior to the enactment of the Health Insurance for the Aged Act, Pub. L. 89-97, Title I, 79 Stat. 290, and the Medicaid Act, Pub. L. 89-97, Title I, Sec. 121(a), 79 Stat. 343, on July 30, 1965;

and (3) are not participating in either of the Medicare or Medicaid programs.

The form of such a waiver application shall meet the requirements for automatic approval by the federal Centers for Medicare and Medicaid Services pursuant to 42 U.S.C. Sec. 1396b(w)(3)(E), including (1) that the net impact of the nursing facility user fee with the waiver remains generally redistributive in nature, as provided in 42 C.F.R. Sec. 433.68(e)(1)(ii), and (2) that the amount of the nursing facility user fee with the waiver remains not directly correlated to payments for items or services, and therefore meets the hold harmless requirements provided in 42 C.F.R. Sec. 433.68(f).

In the waiver application, patient days from nursing facilities not described in the first paragraph above that must be exempted from the nursing facility user fee in order for the waiver application to meet the requirements for automatic approval by the Centers for Medicare and Medicaid Services shall be apportioned equally between nursing facilities in Essex, Middlesex, Norfolk, Plymouth, and Suffolk counties.

**SECTION 256.** Notwithstanding any general or special law to the contrary, the executive office of health and human services shall amend its April, 2004 application to the federal Centers for Medicare and Medicaid Services (CMS) for a waiver from the uniformity provisions of 42 U.S.C. Sec. 1396(w)(b) to mitigate the impact of the user fee on nonprofit continuing care retirement communities and nonprofit residential care facilities. The amended waiver application shall be submitted to CMS within 45 days of the effective date of this section in a manner that is automatically approvable by the federal Centers for Medicare and Medicaid Services pursuant to 42 CFR 433.68(2)(ii). In addition to nonprofit continuing care retirement communities and nonprofit residential care facilities, the division shall include in its amended waiver application, as facilities with non-uniform rates, nonprofit facilities with the highest number of Medicaid days in order for the application to meet the generally redistributive test in 42 CFR 433.68(2)(ii).

**SECTION 257.** Notwithstanding the provisions of any general or special law to the contrary, the regulations, criteria and standards for determining admission to and continued stay in a nursing home shall not be more restrictive than those regulations, criteria and standards in effect on January 1, 2004 until such time as the executive office of health and human services and the executive office of elder affairs submit a multi-year plan to the house and senate committees on ways and means, the joint committee on health care, and the house committee on medicaid detailing the suggested timeline for phasing in changes to nursing home clinical criteria, provided that said changes shall not adversely affect current nursing home residents and shall not jeopardize the effectiveness of the 2176 home and community based waiver.

**SECTION 258.** Notwithstanding any general or special law to the contrary, each state and community college shall require that all students enrolled in 9 or more credits submit written documentation evidence of adequate medical insurance coverage. A list of the names, addresses, and social security numbers of all students indicating any form of MassHealth insurance coverage shall be forwarded to the division of medical assistance for

evaluation of alternative insurance options. The list shall be subject to privacy standards pursuant to Public Law 104-191, and the Health Insurance Portability and Accountability Act of 1996.

The division may assist in the purchase of group health insurance, including insurance offered through a college or university, on behalf of an eligible MassHealth member, provided that the division has determined that the purchase of such insurance is cost-effective and will be provided at no cost to the commonwealth. The division shall deny liability to any adult who refuses to enroll in other available insurance.

**SECTION 259.** Notwithstanding any general or special law to the contrary, the division of medical assistance may expend, subject to federal approval, an amount not to exceed \$172,000,000 from the medical assistance intergovernmental transfer account within the Uncompensated Care Trust Fund for Title XIX payments to certain acute care hospitals. The payments shall be established in accordance with Title XIX of the federal Social Security Act, or any successor federal statute, any regulations promulgated thereunder, the commonwealth's Title XIX state plan and the terms and conditions of agreements reached with the division for such payments. No such funds shall be expended unless the acute care hospital has executed the division of medical assistance's current Acute Hospital Request for Applications and Contract and unless a public entity is legally obligated to make an intergovernmental funds transfer in an amount specified in an agreement with such entity, which amount shall be not less than 50 per cent of the Title XIX payment. All revenues generated pursuant to this section shall be credited to the medical assistance intergovernmental transfer account and administered in accordance with subsection (o) of section 18 of chapter 118G of the General Laws. An accounting of such payments shall be reported quarterly to secretary of administration and finance and the house and senate committees on ways and means.

**SECTION 260.** Notwithstanding any general or special law or regulation to the contrary, the division of medical assistance may expend, subject to federal approval, an amount not to exceed \$10,000,000 from the medical assistance intergovernmental transfer account within the Uncompensated Care Trust Fund for Title XIX payments to the Holyoke medical center. The payments shall be established in accordance with Title XIX of the federal Social Security Act, or any successor federal statute, any regulations promulgated thereunder, the commonwealth's Title XIX state plan, and the terms and conditions of agreements reached with the division for such payments. The funds shall not be expended unless the Holyoke medical center has executed the division of medical assistance's current Acute Hospital Request for Applications and Contract, and the city of Holyoke makes an intergovernmental funds transfer in an amount specified in an agreement, which amount shall be not less than 50 per cent of the Title XIX payment. All revenues generated pursuant to this section shall be credited to the medical assistance intergovernmental transfer account and administered in accordance with subsection (o) of section 18 of chapter 118G of the General Laws.

**SECTION 261.** Notwithstanding any general or special law or rule or regulation to the contrary, the division of medical assistance may expend, subject to federal approval, an amount not to exceed \$10,000,000 from the medical assistance intergovernmental transfer account within the Uncompensated Care Trust Fund for Title XIX payments to qualifying hospitals located in the city of Lawrence. The payments shall be established in accordance with Title XIX of the federal Social Security Act, or any successor federal statute, any regulations promulgated thereunder, the commonwealth's Title XIX state plan, and the terms and conditions of agreements reached with the division for such payments. The funds shall not be expended unless the qualifying hospitals have executed the division of medical assistance's current acute hospital request for applications and contract, and the city of Lawrence makes an intergovernmental funds transfer in an amount specified in an agreement, which amount shall be not less than 50 per cent of the Title XIX payment. All revenues generated pursuant to this section shall be credited to the medical assistance intergovernmental transfer account and administered in accordance with subsection (o) of section 18 of chapter 118G of the General Laws.

**SECTION 262.** Notwithstanding any general or special law or rule or regulation to the contrary, the division of medical assistance may expend, subject to federal approval, an amount not to exceed \$10,000,000 from the medical assistance intergovernmental transfer account within the Uncompensated Care Trust Fund for Title XIX payments to qualifying hospitals located in the Dorchester section of the city of Boston. The payments shall be established in accordance with Title XIX of the federal Social Security Act, or any successor federal statute, any regulations promulgated thereunder, the commonwealth's Title XIX state plan, and the terms and conditions of agreements reached with the division for such payments. The funds shall not be expended unless the qualifying hospitals have executed the division of medical assistance's current acute hospital request for applications and contract, and the Boston public health commission makes an intergovernmental funds transfer in an amount specified in an agreement, which amount shall be not less than 50 per cent of the Title XIX payment. All revenues generated pursuant to this section shall be credited to the medical assistance intergovernmental transfer account and administered in accordance with subsection (o) of section 18 of chapter 118G of the General Laws.

**SECTION 263.** Notwithstanding any general or special law to the contrary, the comptroller shall transfer on or before June 30, 2005, without further appropriation, \$30,000,000 from the General Fund to the Uncompensated Care Trust Fund, established pursuant to section 18 of chapter 118G of the General Laws, for the purpose of making initial gross payments to qualifying acute care hospitals for the hospital fiscal year beginning October 1, 2004. The payments shall be made to hospitals prior to, and in anticipation of, the payment by hospitals of their gross liability to the fund. The comptroller shall transfer from the Uncompensated Care Trust fund to the General Fund not later than June 30, 2005, the amount of the transfer authorized in this section and any allocation thereof as certified by the commissioner of health care finance and policy.

**SECTION 264.** Notwithstanding any general or special law to the contrary, in hospital fiscal year 2005, the division of health care finance and policy is authorized to administer, as provided in this section, the Uncompensated Care Trust Fund established by section 18 of chapter 118G of the General Laws, to collect assessments as specified in section 1 of said chapter 118G for deposit to the fund, and make certain payments to acute hospitals and community health centers from the uncompensated care pool to offset the costs of services provided to uninsured residents. The division and the division of medical assistance may promulgate regulations to implement any of the provisions in this section.

The division, in consultation with the division of medical assistance and the executive office of health and human services, shall ensure that assessment liability to the fund and payments from the uncompensated care pool are structured in a manner that would secure for the General Fund the maximum allowable federal reimbursement under Title XIX, XXI or any successor federal statute.

In hospital fiscal year 2005, the total liability of all acute care hospitals to the fund shall be \$160,000,000 and the division of health care finance and policy shall calculate an assessment percentage rate by dividing \$160,000,000 by the projected annual aggregate private sector charges in the fiscal year for all acute care hospitals. Each acute care hospital's liability to the fund shall be equal to the product of the percentage rate and its "private sector charges".

In hospital fiscal year 2005, the total surcharge liability of surcharge payers to the uncompensated care trust fund shall be \$160,000,000. The surcharge amount for each surcharge payer shall be equal to the product of (a) the surcharge percentage and (b) amounts paid for services of an acute hospital or ambulatory surgical center by each surcharge payer. The division of health care finance and policy shall calculate the surcharge percentage by dividing \$160,000,000 by the projected annual aggregate "payments subject to surcharge", as that phrase is defined in section 1 of chapter 118G of the General Laws.

All title XIX federal financial participation revenue generated by hospital payments funded by the Uncompensated Care Trust Fund, whether the payments are made by the division of health care finance and policy or the division of medical assistance, shall be credited to the General Fund; provided however, that for fiscal year 2005, the comptroller shall transfer to the Uncompensated Care Trust Fund \$208,000,000 of the federal financial participation credited to the General Fund.

All hospital payments made pursuant to this section are subject to federal approval and conditioned on the receipt of full federal financial participation. All such payments shall be established in accordance with Title XIX of the Social Security Act, or any successor federal statute, any regulations promulgated thereunder and the commonwealth's Title XIX state plan; provided, that the division, in consultation with the division of medical assistance, the executive office of health and human services, the Massachusetts Hospital Association, and representatives of acute care hospitals, shall ensure that all funding for hospital payments made pursuant to this section through disproportionate share payments or Title XIX services rate adjustment payments, shall qualify for federal financial participation.

The division of health care finance and policy shall calculate an annual payment

liability from the uncompensated care pool to each acute hospital for fiscal year 2005. In determining the liability amount, the division shall (a) (1) calculate each hospital's actual free care cost for the 12 month period from May 2003 to April 2004 by using each hospital's actual submitted free care charges to the division of health care finance and policy on UC-03 and UC-04 times their ratio of cost to charge for pool fiscal year 2003 and pool fiscal year 2004; (2) project each hospital's free care costs above for the period from May 2003 to September 2003 to May 2004 to September 2004 using a 14 per cent cost and volume growth inflation factor; (3) project each hospital's total pool fiscal year 2004 free care costs by adding actual hospital's free care cost for October 2003 to April 2004 from subclause (1) to the projected hospital's free care costs for May 2004 to September 2004 from subclause (2); (4) project each hospital's total free care costs for pool fiscal year 2004 by multiplying the hospital's pool fiscal year 2004 projected free care costs from subclause (3) by a cost and volume inflation factor of 8 per cent; and (5) take into account such factors as the financial burden of hospitals that provide proportionately the largest volume of free care and the situation of any free-standing pediatric hospital with a disproportionately low volume of Title XVIII payments; and (b) allocate the available funds in a manner that pays to each hospital a fixed percentage of its projected free care costs for hospital fiscal year 2005, as determined by the division using prior year data and considering the total funds available for the purpose; provided that the fixed percentage shall not be less than 85 per cent of free care costs as defined in section 1 of chapter 118G of the General Laws for the 2 disproportionate share hospitals with the highest relative volume of free care costs in hospital fiscal year 2002, and not less than 88 per cent of free care costs, as defined under said section 1 of said chapter 118G, for the 14 acute hospitals with the next highest relative volume of free care costs in said year; provided further that in order to identify said 16 hospitals, the division shall rank all hospitals based on the percentage of each hospital's free care costs divided by the total free care costs of all hospitals in the commonwealth. In addition to those 14 disproportionate share hospitals, a teaching hospital located in Hampden county with high Medicaid utilization shall receive not less than 88 per cent of its free care costs reimbursed and a community hospital located in Norfolk county with an affiliation with a disproportionate share financially distressed community hospital located in Suffolk county with a locked inpatient adolescent psychiatric unit shall be reimbursed not less than 88 per cent of its free care costs. All other acute hospitals shall receive the highest possible percentage of free care costs given available remaining funds. The hospital fiscal year 2005 annual liability amount to each hospital shall be funded by the trust fund; provided, that the liability may be satisfied through either a disproportionate share payment or adjustment to Title XIX service rate adjustment payment, or combination thereof, in accordance with the terms provided for in an agreement entered into by any acute hospital and the division of medical assistance. The comptroller shall transfer without further appropriation funds to the division of medical assistance for the purpose of the Title XIX service rate adjustment payments.

The division of medical assistance shall maximize the use of other federally permissible funding mechanisms available for publicly-operated hospitals and hospitals with

an affiliation with a publicly-operated health care entity to reimburse up to \$70,000,000 of uncompensated care costs at the hospitals using sources distinct from the funding made available to the trust fund under this section.

The division of medical assistance shall make payments from the uncompensated care pool for services provided by community health centers to uninsured residents in accordance with the relevant provisions of chapter 118G, and regulations promulgated under chapter 118G, in effect at the end of fiscal year 2004. Said division, in consultation with the division of medical assistance, the executive office of health and human services, and interested parties representing community health centers, shall develop a plan and take whatever steps necessary to adjust any or all payments made to community health centers for uncompensated care to be paid as Title XIX service rate adjustment payments, in accordance with Title XIX of the Social Security Acts, or any successor federal statute, any regulations promulgated thereunder. The comptroller shall transfer without further appropriation funds determined by the division of health care finance and policy to the division of medical assistance for the purpose of the Title XIX service rate adjustment payments under this section. The division of health care finance and policy shall submit a report by March 30, 2005 specifying the payments made to community health centers for uncompensated care paid as Title XIX service rate adjustment payments and the amount of federal reimbursement obtained and anticipated in hospital fiscal year 2005 from such payments. Said federal reimbursement shall be deposited to the Uncompensated Care Trust Fund and be appropriated by September 30, 2005, to be used by community health centers as provided by this paragraph and any other provider of free care.

In hospital fiscal year 2005, not less than \$5,000,000 shall be expended from the uncompensated care trust fund to fund a Pool Audit Unit within the office of the Inspector General. Said unit shall hire auditors to oversee and examine the practices in emergency rooms of all Massachusetts hospitals. Said practices shall include but not be limited to: (1) enrollment of uninsured patients into MassHealth or other available programs; (2) free care charges hospitals are making to the free care pool and whether these charges accurately represent costs incurred by uninsured patients; (3) any cost diversion or shifting to the Uncompensated Care Pool that might be occurring in hospital ERs as the result of inadequate payment from public or private payers, and (4) reporting on whether current assessments are fairly and evenly distributed per individual covered between all types of health plans, whether such plans are Massachusetts regulated, ERISA-exempted, or self-insured plans. Said office shall promulgate regulations to carry out the provisions of this section. The inspector general's office shall submit a report to the house and senate committees on ways and means on the results of said audits no later than January 20, 2005. For the purposes of said audits, allowable free care services shall be defined pursuant to chapter 118G of the General Laws.

In hospital fiscal year 2005, \$5,000,000 shall be transferred from the uncompensated care trust fund to the division of medical assistance, in collaboration with the division of health care finance and policy, to fund the start-up costs associated with the design and implementation of a cost-neutral pilot program of primary and preventive care and disease

management of chronic conditions that will reduce the costs of federally mandated emergency care and the costs otherwise charged to the uncompensated care pool. Individuals eligible for said pilot program shall include but not be limited to recipients of emergency assistance for the elderly, disabled and children, elderly residents aged 65 or older and adults under age 65 who are disabled, blind or chronically ill. The division shall report back to the house and senate committees on ways and means on the cost neutrality of the pilot program and data on anticipated savings to the Uncompensated Care Pool by December 1, 2004.

In hospital fiscal year 2005, \$500,000,000 from the trust fund shall be credited to the uncompensated care pool for payments to acute hospitals provided for herein and \$56,000,000 from the trust fund shall be credited to the pool for payments to community health centers provided for in this section; provided further, that \$28,000,000 of said \$56,000,000 payment for said community health centers, shall come from federal financial participation monies received from said \$28,000,000 expenditure. The comptroller shall transfer, without further appropriation, \$160,000,000 from the trust fund to the division of medical assistance for the purposes of meeting payment obligations for services provided by the MassHealth Essential program.

**SECTION 265.** Notwithstanding any general or special law to the contrary, the Title XIX single state agency shall administer a program of preventive and primary care for chronically unemployed persons who are not receiving unemployment insurance benefits and who are not eligible for medical assistance but who are determined by the division to be long-term unemployed, provided that such persons meet the eligibility requirements established under the MassHealth program as established in section 9A of chapter 118E of the General Laws; provided that such persons' financial eligibility shall not exceed 100 per cent of the federal poverty level. Such eligibility requirements shall not exclude from eligibility persons who are employed intermittently or on a non-regular basis. The provision of care to such persons under this program may, taking into account capacity, continuity of care and geographic considerations, be restricted to certain providers including community health centers, hospital-licensed health centers, mental health providers, and, where necessary to ensure access, larger primary group practice settings. Funding for the program may not exceed \$160,000,000 in hospital fiscal year 2005. Enrollment in the program shall not exceed 36,000 persons. If the agency projects that there is adequate funding to increase the enrollment cap, said agency must also certify that said increased enrollment shall not cause the program to annualize beyond the amount appropriated in fiscal year 2005. Sixty days prior to enrolling any person beyond the 36,000 cap, the agency shall notify and receive approval for such an increase from the house and senate committees on ways and means. The agency may operate the program until September 30, 2005. Implementation of the program shall be contingent upon the agency obtaining any requisite federal approval. The agency shall collect information on each person enrolled in the program and shall report quarterly to the house and senate committees on ways and means the following: (1) the number of persons enrolled; (2) the geographic distribution of said persons; (3) the location of service of each billable claim delineated by enrollee; (4) the type of services provided to

enrollees; (5) enrollment patterns delineated by enrollee, including but not limited to, coverage start date, coverage end date, any transfer of coverage from the MassHealth Essential program to other MassHealth programs, other state funded programs, or federally funded programs; and (6) data collected on utilization on emergency room visits as compared to visits to community health centers and other lower-cost sites of care. The agency shall account for all spending on the program on the Massachusetts management accounting reporting system.

**SECTION 266.** Notwithstanding any general or special law to the contrary, the division of medical assistance shall seek a federal waiver under the Health Insurance Flexibility and Accountability Act to expand MassHealth coverage to children between 200 and 400 per cent of the federal poverty line. Said waiver may restrict benefits offered to such services including, but not limited to, well child visits and immunizations, physician office visits, laboratory tests, X-Rays, family planning services, specialty consultations, a prescription drug benefit, eye exams, hearing tests, a durable medical equipment benefit, mental health and substance abuse visits of up to 20 outpatient visits each year, and basic dental benefits but must include limited inpatient hospital services. Said division shall devise said program to incur costs of not more than \$100 per member per month. Said division shall report to the house and senate committees on ways and means within 10 days of filing said waiver with the center for medicare and medicaid services and shall notify said committees within 10 days of approval of said waiver. No funds shall be expended on said children in fiscal year 2005 until said secretary has provided written certification to the house and senate committees on ways and means that such waiver was granted before the end of fiscal year 2005. Said certification must be submitted at least 90 days before any children are enrolled in the waiver program.

**SECTION 267.** Notwithstanding any general or special law to the contrary, the division of medical assistance, hereafter referred to as the division, and the division of health care finance and policy shall take any appropriate action to obtain the maximum amount of federal financial participation available for amounts paid to hospitals, determined by the division to be disproportionate share hospitals in accordance with Title XIX requirements, for free care costs of such hospitals. Such appropriate action may include, but shall not be limited to, the assessment on hospitals for their liability to the uncompensated care pool pursuant to chapter 118G of the General Laws. Such appropriate action shall include the establishment or renewal of an interdepartmental services agreement between the division and the division of health care finance and policy which may authorize the division to make deposits into and payments from an account established for the purposes of this section within the Uncompensated Care Trust Fund, established by section 18 of said chapter 118G of the General Laws, or authorize the division of health care finance and policy to transfer uncompensated care fee revenue collected from hospitals pursuant to said chapter 118G of the General Laws or funds otherwise made available to said trust fund by the general court, to the division for the purposes of making disproportionate share adjustment payments to hospitals qualifying for such payments in accordance with the commonwealth's Title XIX

state plan and relevant provisions of Title XIX. The division may expend amounts transferred to it from the Uncompensated Care Trust Fund by the division of health care finance and policy under such interdepartmental services agreement without further appropriation. In no event shall the amount of money assessed upon each hospital exceed the hospital's gross liability to the Uncompensated Care Trust Fund as determined by the division of health care finance and policy pursuant to said section 18 of said chapter 118G of the General Laws. Any federal funds obtained as a result of said actions shall be deposited in the General Fund. The offices of the state treasurer and the comptroller shall establish such procedures as may be necessary to effectuate this section, including procedures to facilitate the expeditious assessment, collection and expenditure of funds pursuant to this section.

**SECTION 268.** Notwithstanding any general or special laws to the contrary, in fiscal year 2005, expenditures from the Essential Community Provider Expendable Trust Fund as established by section 133 of chapter 140 of the acts of 2003, shall be dedicated to efforts that are designed to improve and enhance the ability of the essential community providers to serve populations in need more efficiently and effectively, including, but not limited to, the ability to provide community-based care, clinical support and care coordination services, pharmacy management services, or other efforts to create effective coordination between hospital care and ambulatory care sites in the community. The secretary of health and human services shall develop emergency regulations governing the recommended uses of said fund in partnership with the Massachusetts League of Community Health Centers and the Massachusetts Hospital Association; provided, that the secretary shall provide a \$200,000 one-time grant from the fund for a community health center serving the full range of the underserved population in the town of Barnstable and further serving the dental needs of all the underserved population throughout the mid-cape area; provided further, that the secretary shall provide a \$750,000 one-time grant from the fund for a sole community hospital under the Medicare program located in Barnstable county; provided further, that the secretary shall provide a \$250,000 one-time grant from the fund for an acute hospital serving the Melrose and Wakefield communities that operates a family health service clinic; provided further, that the secretary shall provide a \$750,000 one-time grant from the fund for a non-teaching, community, disproportionate share, acute care hospital located in southeastern Massachusetts, which provides inpatient care to over 5,000 MassHealth or MassHealth HMO patients per year; provided further, that the secretary shall provide a \$750,000 one-time grant from the fund for a non-profit visiting nurse association located in Boston, that delivers at least 30 per cent of all MassHealth reimbursed skilled nursing visits and at least 50 per cent of all MassHealth reimbursed home health aide services in Suffolk county; provided further, that the secretary shall provide a \$400,000 one-time grant from the fund for a community health center located in the South Boston section of the city of Boston which operates an urgent care center and which is affiliated with the disproportionate share teaching hospital in Suffolk county with the highest volume of free care; provided further, that the secretary shall provide a \$350,000 one-time grant from the

fund for a community health center located in the Codman square neighborhood of the Dorchester section of the city of Boston providing health care to medically underserved patients in Dorchester, that has formed an integrated health services network to provide access to primary and preventive public health services; provided further, that the secretary shall provide a \$350,000 one-time grant from the fund for a community health center located near the Fields Corner neighborhood of Dorchester, on Dorchester avenue, providing health care to medically underserved patients in Dorchester, who has formed an integrated health services network to provide access to primary and preventive public health services; provided further, that the secretary shall provide a \$400,000 one-time grant from the fund for a community health center with at least 3 sites serving the medically underserved areas of Dorchester and South Boston, including at least one public housing project; provided further, that the secretary shall provide a \$750,000 one-time grant from the fund to a disproportionate share hospital provider in the county formerly known as Essex county that has a family practice residency in partnership with a federally qualified community health center; provided further, that the secretary shall provide a \$750,000 one-time grant from the fund for a teaching hospital located in central Berkshire county; provided further, that the secretary shall provide a \$500,000 one-time grant from the fund for a hospital located in Hampden county, west of the Connecticut river with under 100 beds that participates in MassHealth; provided further, that the secretary shall provide a \$1,000,000 one-time grant from the fund for a hospital that is a member of the UMass Memorial Health Care system located in Hampden county with less than 50 licensed beds; provided further, that the secretary shall provide a \$1,000,000 one-time grant from the fund for a community hospital located in Hampshire county with an affiliation with a teaching hospital located in Hampden county; provided further, that the secretary shall provide a \$500,000 one-time grant from the fund for a community health center that serves as a family practice residency training site for a commonwealth funded medical school and that assumed the primary care services of the former Worcester city hospital; provided further, that the secretary shall provide a \$250,000 one-time grant from the fund for a not-for-profit long term acute care hospital located in the Roxbury section of the city of Boston; provided further, that the secretary shall provide a \$950,000 one-time grant from the fund to a disproportionate shore acute care hospital located in the southeastern Massachusetts division of the medical assistance psychiatric service area that operates an inpatient psychiatric unit within the city of Brockton; provided further, that the secretary shall provide a \$4,000,000 one-time grant from the fund for statewide providers with the service area of the Sisters of Providence health system and Providence behavioral health hospital; provided further, that the secretary shall provide a \$500,000 one-time grant from the fund for an acute care hospital located in Gloucester that is part of a health care system; provided further, that the secretary shall provide a \$2,500,000 one-time grant from the fund for an acute care hospital located in the city of Holyoke that is affiliated with a commonwealth-owned university medical school and that provides clinical training programs for nurses, allied health professionals and technicians through affiliations with community colleges and private universities; provided further, that the secretary shall provide a \$500,000

one-time grant from the fund for Waltham community health center; provided further, that the secretary shall provide a \$3,000,000 one-time grant from the fund for a community health center located in Suffolk county that participates in the MassHealth program and operates a 24-hour urgent care facility and a 340B outpatient pharmacy program; provided further, that the secretary shall provide a \$1,000,000 one-time grant from the fund for a disproportionate share teaching hospital located in Hampden county; provided further, that said secretary shall provide a \$300,000 one-time grant from the fund to inpatient behavioral health providers under contract with MassHealth's managed care contractors for mental health and substance abuse for costs associated with providing care to stuck kids, so called; provided further, that the secretary shall provide a \$285,000 one-time grant from the fund for a community, non-profit, acute care regional teaching hospital located in Worcester county affiliated with the University of Massachusetts memorial health care system; provided further, that the secretary shall provide a \$250,000 one-time grant from the fund for a community health center located in the North End section of the city of Boston; provided further, that the secretary shall provide a \$500,000 one-time grant from the fund for a community hospital located in the city of Lynn; provided further, that the secretary shall provide a \$5,500,000 one-time grant from the fund for a disproportionate share financially distressed community hospital located in Suffolk county with a locked inpatient adolescent psychiatric unit that participates in the MassHealth program; provided further, that the secretary shall provide a \$1,000,000 one-time grant from the fund for a community hospital located in Norfolk county with an affiliation with a disproportionate share financially distressed community hospital located in Suffolk County with a locked inpatient adolescent psychiatric unit; provided further, that the secretary shall provide a \$1,200,000 one-time grant from the fund for a disproportionate share teaching hospital in Worcester County for emergency mental health services; provided further, that the secretary shall provide a \$1,000,000 one-time grant from the fund for a pediatric rehabilitation hospital located in Suffolk County. All federal reimbursements received by the commonwealth for expenditures made from the fund shall be deposited into the fund. Nothing provided herein shall preclude any hospital or community health center from receiving additional funds from this fund. Provided, that all expenditures made from said fund shall be made eligible for federal reimbursement by the secretary and the executive office of health and human services. The secretary shall file a report not later than November 1, 2004 to the speaker of the house of representatives, the president of the senate and to the house and senate committees on ways and means outlining the providers to be funded during fiscal year 2005 from the fund, the amount expended or to be expended for each provider pursuant to this section and the amount of anticipated federal reimbursement. All federal reimbursements received by the commonwealth for expenditures made from the fund shall be deposited into this fund.

**SECTION 269.** Notwithstanding any general or special law to the contrary, during fiscal year 2005 and including the accounts payable period for that fiscal year, the division of medical assistance may expend from the medical assistance intergovernmental transfer account within the Uncompensated Care Trust Fund an amount not less than \$700,000,000

for a program of MassHealth supplemental payments to certain publicly operated entities providing Title XIX reimbursable services, directly or through contracts with hospitals under an agreement with the division relating to such payments and transfers as established in accordance with Title XIX of the Social Security Act or federal waivers thereof, federal regulations promulgated thereunder, the terms of the waiver under section 1115 of the Social Security Act, state law, and the Medicaid state plan. The growth in membership of such publicly-operated entities' managed care organizations shall increase by not less than 48 per cent in fiscal year 2005. The funds may be expended only for payment obligations arising during fiscal year 2005. Such expenditures shall reduce payments from the Uncompensated Care Trust Fund to such entities by an amount comparable to the net revenues received by such entities under this section. The division of medical assistance shall notify the house and senate committees on ways and means if such expenditures are rendered ineligible for federal reimbursement. Amounts so authorized for said expenditure shall be funded in part through intergovernmental transfers to the commonwealth of municipal or other non-federal public funds. The Boston public health commission and the Cambridge public health commission shall transfer to said medical assistance intergovernmental transfer account an amount equal to 55 per cent of the gross amounts of supplemental payments made by the division of medical assistance under managed care contracts with the commissions. An amount equal to 4.4 per cent of the total amount that the Boston and Cambridge public health commissions transfer to the medical assistance intergovernmental transfer account pursuant to this section shall be transferred from said medical assistance intergovernmental transfer account to revenues available for the administration of the uncompensated care pool, as established under subsection (d) of section 18 of chapter 118G of the General Laws. An amount equal to 5.3 per cent of the total amount that the Boston and Cambridge public health commissions transfer to the medical assistance intergovernmental transfer account pursuant to this section shall be transferred from said medical assistance intergovernmental transfer account and credited to the Essential Community Provider Expendable Trust Fund, established by section 133 of chapter 140 of the acts of 2003.

**SECTION 270.** Notwithstanding any general or special law, rule or regulation to the contrary, the executive office of health and human services may, on a demonstration basis in the area defined and limited under the federally funded DOHHS HRSA CAP Grant 11-G92-OA 00005-02, provide benefits described in section 9C of chapter 118E of the General Laws to employees and employers who are described and limited under the program set forth in the demonstration, and may expend monies from any appropriation for benefits provided under said section 9C of said chapter 118E to also provide benefits specified in the demonstration expanding the income limits set forth in said section 9C of said chapter 118E from 200 per cent to 300 per cent of the federal poverty level, but (1) the executive office shall seek to obtain a modification of its demonstration, as defined in subsection (I) of section 9A of said chapter 118E that would allow for federal reimbursement for any of the expenditures for providing the benefits specified in the demonstration; and (2) the demonstration, without expenditure of monies from any appropriation for benefits provided

under said section 9C of said chapter 118E, shall also be permitted to offer health coverage to employees between 300 per cent and 400 per cent of the federal poverty level. Sections 3 to 8, inclusive, of chapter 176J of the General Laws and 211 CMR 66.00 shall not apply to health coverage provided by carriers pursuant to this section.

**SECTION 271.** Notwithstanding any general or special law or regulation to the contrary, for the purpose of qualification as an essential MassHealth hospital, teaching hospitals affiliated with a commonwealth-owned university medical school shall include hospitals with the affiliation that: (i) have at least 25 full time equivalent residents and interns; or (ii) provide clinical training programs for nurses and allied health professionals and technicians through affiliations with community colleges and private universities.

**SECTION 272.** Notwithstanding any general or special law to the contrary, the department of mental health, the department of public health, the division of medical assistance and the division of health care finance and policy shall take any appropriate action to obtain the maximum amount of federal financial participation available for amounts paid for low-income care costs at those mental health and public health facilities determined to be disproportionate share hospitals in accordance with requirements of Title XIX of the Social Security Act. Such appropriate action may include, but shall not be limited to, the establishment of a separate account within the Uncompensated Care Trust Fund, established by section 18 of chapter 118G of the General Laws, for the purpose of making disproportionate share payment adjustments to such qualifying mental health and public health facilities under relevant division of health care finance and policy regulations and the Title XIX state plan on file with the centers for Medicare and Medicaid services. The division of medical assistance, the department of public health and the department of mental health may expend amounts transferred to them from such separate account within the Uncompensated Care Trust Fund without further appropriation. Any federal funds obtained as a result of actions taken pursuant to this section shall be deposited in the General Fund. The state treasurer and the comptroller shall establish such procedures as may be necessary to effectuate this section, including procedures for the proper accounting and expenditure of funds under this section.

**SECTION 273.** Notwithstanding any general or special law to the contrary, the division of medical assistance may expend, subject to federal approval, an amount not to exceed \$125,000,000 from the medical assistance intergovernmental transfer account within the Uncompensated Care Trust Fund for Title XIX payments to the University of Massachusetts Memorial Hospital and its affiliated hospitals. The payments shall be established in accordance with Title XIX of the federal Social Security Act, or any successor federal statute, any regulations promulgated thereunder, the commonwealth's Title XIX state plan, and the terms and conditions of agreements reached with said division for such payments. No such funds shall be expended unless the University of Massachusetts Memorial Hospital and its affiliated hospitals have executed the division of medical assistance's current Acute Hospital Request for Applications and Contract, and the University

of Massachusetts Medical School makes an intergovernmental funds transfer in an amount specified in an agreement, which amount shall be not less than 50 per cent of the Title XIX payment. All revenues generated pursuant to this section shall be credited to the medical assistance intergovernmental transfer account and administered in accordance with the provisions of subsection (o) of section 18 of chapter 118G of the General Laws. Not later than 60 days after such expenditure, the University of Massachusetts Medical School shall submit to the secretary of administration and finance and the house and senate committees on ways and means a report detailing the programs funded from revenue associated with this section.

**SECTION 274.** Notwithstanding paragraph (a) of subsection (xxiii) of section 9 of chapter 211B of the General Laws, or any other general or special law to the contrary, the chief justice for administration and management may, from the effective date of this act through April 30, 2005, transfer funds from any item of appropriation of any trial court department to any other item of appropriation within the trial court department. Said transfers shall be made in accordance with schedules submitted to the house and senate committees on ways and means. Said schedule shall include the following: (1) the amount of money transferred from one item of appropriation to another; (2) the reason for the necessity of such transfer; and (3) the date on which said transfer is to be completed. No such transfer shall occur until 10 days after the revised funding schedules have been submitted in written form to the house and senate committees on ways and means.

**SECTION 275.** The provisions of section 615 of chapter 26 of the acts of 2003 shall apply in fiscal year 2005.

**SECTION 276.** Notwithstanding any general or special law to the contrary, the executive office of public safety, the department of state police, and the registry of motor vehicles working in conjunction with the Massachusetts Motor Transportation Association and other relevant federal, state, and local agencies and governmental departments, including but not limited to the Federal Motor Carrier Safety Administration, is hereby required to report to the general court the level of compliance with and enforcement of statutes and regulations governing the intrastate and interstate operation of commercial vehicles in the commonwealth. Said report shall include, but not be limited to, consideration of the following: regulations of the United States Department of Transportation and Federal Motor Carrier Safety Administration, as contained in Title 49 of the code of Federal Regulations, relative to proof of financial responsibility, driver qualification files and forms, drug and alcohol testing records as applicable, records and supporting documentation of duty status, driver vehicle inspection reports and maintenance records, hazardous materials records as applicable, and an accident register and copies of all accident reports as required by the commonwealth or insurers; sections 2, 3, 9, and 10 of chapter 90 of the General Laws relative to licensing and registration; section 2B of chapter 85 and section 31 of said chapter 90 relating to the transportation of freight, passengers or hazardous materials; chapter 90F of the General Laws relative to the operation of commercial vehicles; and any other relevant state statute pertaining to the operation of commercial motor vehicles in the commonwealth.

Said report shall also include the effect of non-compliance of said statutes and regulations upon the commonwealth's eligibility for federal grant monies by and through the Federal Motor Carrier Safety Administration. Said report, including any legislative recommendations, shall be filed with the house and senate committees on ways and means no later than March 31, 2005.

**SECTION 277.** Notwithstanding any general or special law to the contrary, the division of operational services shall implement in fiscal year 2005 procurement reforms including, but not limited to the following: (a) a review of the procurement of goods and services to ensure all goods and services procured by the commonwealth or its political subdivisions shall be in the most efficient and cost effective manner possible; (b) deploy new strategies to increase vendor competition including, but not limited to, reverse auctions and multiple-round requests for proposals; (c) review key purchasing categories to provide immediate savings in, including, but not limited to, information technology, office supplies, lighting, food and food service equipment, medical supplies, janitorial supplies, temporary staffing and building supplies; (d) review existing equipment maintenance programs and identify opportunities for savings in state warranty agreements on, including but not limited to, information technology, printers, facsimile machines, copiers, telecommunication equipment, mail machines, and other hardware; (e) work with industry consultants and specialists to analyze contracts, benchmark value against other states and assist in vendor negotiations; provided, that the consultants and specialists shall only be paid from any actual savings discovered; (f) the division shall specifically look into the initial warranties offered with the purchase or lease of the above products, including exploring the option of combining contracts to best provide the commonwealth with equipment and warranties at reduced costs while still providing adequate warranty coverage; and (g) explore the possibility of bulk purchasing for standard equipment or services to increase purchasing power and achieve maximum savings. The division of operational services shall submit a report on the implementation of procurement reforms that shall include, but not be limited to, the following: (a) a summary of actions taken to-date on the above referenced reforms; (b) a review of instances where agencies expended funds on any product when the expenditures exceeded that of the published costs under any statewide procurement contract for fiscal years 2002 to 2004, inclusive, the reasons why these purchases were not made through the statewide contract, and any recommendations on how these purchases can be limited in the future; (c) a report on reverse auctions and multiple round requests for proposal, the frequency that these procurement bidding processes occur in relation to other bidding processes and the reasons why each bid process is chosen over another bid process; (d) where efficiencies can be made in providing statewide procurement contracts for any, information technology, printers, facsimile machines, copiers, telecommunication equipment, mail machines, and other hardware electronic equipment leases, purchases and warranties; and (e) the division shall include in said report recommendations to require the trial courts, University of Massachusetts system, community colleges and state colleges to utilize the statewide contracts in the same manner of all other agencies. The division shall submit the

report to the house and senate committees on ways and means not later than January 1, 2005.

**SECTION 278.** Notwithstanding any general or special law to the contrary, the division of purchased services of the operational services division which, under section 274 of chapter 110 of the acts of 1993, is responsible for determining prices for programs under chapter 71B of the General Laws, shall set all such prices in fiscal year 2005 at the same level calculated for fiscal year 2004, except the prices for those programs for Extraordinary Relief, as defined in 808 CMR 1.06(4). Programs for which prices in fiscal year 2004 were lower than the full amount permitted by the division of purchased services shall be permitted to charge in fiscal year 2005 the full price calculated for fiscal year 2004.

In requests for tuition increases, except for those pursuant to extraordinary relief, the applicant shall notify relevant public schools and other public purchasers of the request prior to October 1 of the fiscal year in which the application is filed.

Upon the request of a program, the operational services division shall authorize a minimum price for the program to charge out-of-state purchasers. The price shall be determined in the following manner: the division shall identify the most recent price calculated for the program and apply the estimated rate of inflation which are established by December 1 of each year pursuant to section 274 of chapter 110 of the acts of 1993 in a compounded manner for each fiscal year following the most recent calculated price.

**SECTION 279.** (a) Notwithstanding section 54 of chapter 7 of the General Laws, the division of capital asset management and maintenance, on behalf of and in consultation with the department of conservation and recreation, is hereby authorized, notwithstanding sections 40E to 40I, inclusive, of chapter 7 of the General Laws and using such competitive proposal process as the commissioner of said division deems necessary or appropriate, to lease and enter into other agreements, for terms not to exceed 20 years, to or with 1 or more offerors who participate in that process, for 1 or more skating rinks, so as to provide for the continued use, operation, maintenance, repair and improvement of the following state-owned buildings and facilities together with the land and appurtenances associated therewith, comprising those ice skating rinks and facilities formerly under the jurisdiction of the metropolitan district commission. For fiscal year 2005, this authorization shall only apply to the following rinks: Allied Veterans Memorial Rink, Everett; Connery Memorial Rink, Lynn; Cronin Memorial Rink, Revere; Porazzo Memorial Rink, East Boston district, Boston; Simoni Memorial Rink, Cambridge; Veterans Memorial Skating Rink, Arlington; and Veterans Memorial Rink, Waltham.

There shall be an option for renewal or extension for operations and maintenance services not exceeding an additional 5 years. Such renewal or extension shall be at the discretion of the division of capital asset management and maintenance in accordance with the original contract terms and conditions or contract terms and conditions more favorable to the state. All leases must contain a provision that requires the lessee to carry comprehensive general liability insurance with the commonwealth named as a co-insured, protecting the commonwealth against all personal injury or property damage within the rink or on the land during the term of the lease.

Such leases and other agreements shall be on terms acceptable to the commissioner of the division of capital asset management and maintenance after consultation with the commissioner of the department of conservation and recreation, and, notwithstanding any general or special law to the contrary, shall provide for the lessees to manage, operate, improve, repair and maintain the properties. Any such leases or other arrangements requiring capital improvements to be made to any buildings or surface areas shall include a description of the required capital improvements and, at a minimum, performance specifications. Such leases and other agreements shall provide that any benefits to the commonwealth and the costs of improvements and repairs made to the properties provided by the tenants or the recipients of the properties shall be taken into account as part of the consideration for such leases or other agreements. The division, in consultation with the department, shall structure each lease or other agreement to minimize disturbance of the current rights of any tenants who may currently use any part of the rink or adjoining facilities, whether under a written lease or other arrangement. All consideration received from the leases or other agreements shall be payable to the department of conservation and recreation for deposit into the General Fund. The lessees of said properties shall bear all costs deemed necessary or appropriate by the commissioner of the division of capital asset management and maintenance for the transaction, including without limitation, all costs for legal work, survey, title and the preparation of plans and specifications.

(b) The division of capital asset management and maintenance, in consultation with and on behalf of the department of conservation and recreation, shall solicit proposals through a request for proposals which shall include key contractual terms and conditions to be incorporated into the contract, including but not limited to (1) a comprehensive list of all rinks operated by the responsive bidder or offeror in the last four years, (2) other facilities management or experience of the responsive bidder or offeror, (3) other skating or hockey management experience of the responsive bidder or offeror, (4) a residential discount program, (5) reservation policies, (6) proposed reasonable rates that will ensure continued public access, (7) required financial audits, (8) policies to encourage use of the rink by persons of all races and nationalities, (9) safety and security plans, (10) seasonal opening and closing dates, (11) hours of operation and (12) how the operator will satisfy the following ice time allocation guidelines. Ice time at rinks under the jurisdiction of the division of urban parks and recreation shall be allocated to user groups in the following priority order: general public skating; non-profit youth groups; school hockey; youth groups other than non-profit youth groups; and adult organizations or informal groups. Ice time may be allocated at the discretion of the operator, provided that general public skating shall be booked at a minimum of 12 hours per week, with a range of times and days which reasonably allow for public skaters of all ages to participate in some public skating sessions. Every effort shall be made to balance the ice allocation needs of long-established youth organizations and newly formed youth organizations in a manner that provides equal opportunity and equal access for youths of each gender.

No proposal to lease the Allied Veterans rink in the city of Everett shall be deemed responsive without a proposal by the same offeror to lease the Cronin rink in the city of Revere.

The inspector general shall review and approve any request for proposal issued by the division before issuance.

The division, in consultation with the department, when evaluating proposals that are otherwise comparable, shall prefer any proposal to lease a rink or rinks that is submitted by a city or town where the rink or rinks are located, or by a non-profit youth hockey organization in the city or town where the rink or rinks are located, provided that the proposal complies with the ice time allocation guidelines outlined above. This subsection shall not apply to the Veterans Memorial Skating Rink in the town of Arlington.

(c) It shall be a mandatory term of any request for proposals issued by the commissioner and of any contract entered into by the commonwealth with any party regarding the subject matter of this section that any party which has entered into a contract pursuant to this section with the commonwealth shall require, in order to maintain stable and productive labor relations and to avoid interruption of the operation of the rinks and to preserve the safety and environmental conditions of those rinks, that all employees currently working on the operation and maintenance of the rinks be offered employment by any party entering into a contract pursuant to this section. Upon the execution of any agreements authorized by this section, the department of conservation and recreation shall reassign or relocate those employees who do not accept employment with the lessor, to comparable positions within the department subject to applicable collective bargaining agreements.

(d) The provisions of any general or special law or rule or regulation relating to the advertising, bidding or award of contracts, to the procurement of services or to the construction and design of improvements shall not be applicable to any selected offeror which is awarded a contract pursuant to this section, except as provided in this section.

(e) The division and the department shall report on the results of any requests for proposals and subsequent leases executed as a result of this section. The report shall include, but not be limited to, the following: the time required to conduct the request for proposals process; the quality and characteristics of the bids received in response to the request; the criteria used to identify successful bidders; the dates of any executed leases; any service changes resulting from executed leases; any increase or decrease in the length of the season of operations for the rink; the capital improvements that have been completed, are under construction or are planned for construction; and the monetary results of any executed leases. The report shall include recommendations for whether the remaining rinks formerly under the jurisdiction of the former metropolitan district commission should be the subject of a request for proposals for fiscal year 2006. The report shall be submitted to the clerks of the house and senate and to the house and senate committees on ways and means no later than February 1, 2005.

**SECTION 280.** Notwithstanding any general law to the contrary, the town of Lancaster through the Worcester regional retirement board is hereby authorized and directed

to pay to Claire B. McNamara, the surviving spouse of Firefighter Martin H. McNamara V, so long as she remains unmarried, an accidental death benefit allowance to consist of a yearly amount of annuity equal to 2/3s of the average annual salary of a first year career firefighter in the local area; such average to be determined by a survey of not less than 3 surrounding towns which are member units of the Worcester regional retirement system, such towns as determined by the Worcester regional retirement system, in consultation with the public employee retirement administration increased 2,600 for each child of Firefighter Martin H. McNamara V during such time as each child is under 18 years of age or 21 years of age if a full time student or such child over 18 years of age who is physically or mentally incapacitated from earning. If there is no surviving spouse or the surviving spouse later dies, such an annuity shall be paid to the eligible children in equal shares. If the surviving spouse marries an annuity of 12,000 should be made annually to the eligible children. For the purposes of this section, the words, "full-time student" shall mean a child who is in full-time attendance in an accredited educational institution offering full-time courses of study equivalent to or higher than secondary school study. The words "accredited educational institution" shall mean any school, college or university that is licensed, approved or accredited, as the case may be, in the state in which it is located. Any annuity granted under this section shall be increased by the same percentage allowed to other retirees or their dependents. Such amounts as are necessary to cover the obligations contained herein shall be raised and appropriated in an amount not to exceed \$650,000 contingent upon an override of the provisions of section 21C of chapter 59 of the General Laws, by approval of the voters, said override to be limited to the period of one year and to provide for the purchase of an annuity instrument to provide for the financial obligations as imposed upon the Town by the provision of this section, exclusive of those obligations imposed by section 191.

**SECTION 281.** The benefits provided by section 280 of this act shall be in the alternative to the benefits authorized by any other general law as it obligates the town of Lancaster. If the town of Lancaster makes payment under said section 280 of this act, it shall have no further obligation to Claire B. McNamara or her dependents under any other general or special law.

**SECTION 282.** Notwithstanding the provisions of section 281 of this act, Claire B. McNamara, the surviving spouse of Firefighter Martin H. McNamara V, so long as she remains unmarried, and her dependents, shall be eligible for health insurance through the town of Lancaster on the same basis as all other retirees and be responsible for the retirees' share of all premiums.

**SECTION 283.** Sections 280, 281 and 282 shall be submitted to the voters of the town of Lancaster at the biennial state election to be held on November 2, 2004, in the form of the following question, which shall be placed on the official ballot to be used at said election by the state secretary. "Shall sections 280, 281, and 282 of House Bill 4850 of 2004 which authorized the town of Lancaster to pay a survivor benefit and extend health insurance coverage to Claire B. McNamara and her dependents' be accepted?" If a majority of the votes

cast in answer to said question is in the affirmative, these sections shall take effect, but not otherwise.

**SECTION 284.** Notwithstanding section 100G 1/4 of chapter 41 or any other general or special law to the contrary, the town of Lancaster may pay the reasonable expenses, not exceeding \$21,000, of the funeral and burial of Firefighter Martin H. McNamara V who died in the performance of his duties.

**SECTION 285.** Notwithstanding section 22A and section 21C of chapter 59 of the General Laws or any other general or special law to the contrary, the board of selectmen of the town of Lancaster shall, at least 10 days before any election at which a binding or non-binding question shall be submitted solely to the voters of said town, cause to be posted in one or more locations in the town or on the town's official website, or published in a newspaper in general circulation in the town, as may be determined by by-law, and, at the discretion of the board of selectmen, subject to available funds and any other conditions that may be imposed by by-law, cause to be printed and sent to each residence of 1 or more voters whose name appears on the official voting list and shall make available at each polling place the full text of such question, a fair and concise summary of each question, including a 1 sentence statement describing the effect of a yes or no vote prepared by the town counsel and arguments for and against the question as provided in section 286.

**SECTION 286.** The board of selectmen of the town of Lancaster shall cause to be posted in one or more locations in the town, and/or on the town's official website, or publishing in a newspaper in general circulation in the town, as may be determined by by-law, and, at the discretion of the board of selectmen, subject to available funds and any other conditions that may be imposed by bylaw, cause to be printed and sent, in the manner provided in section 285, arguments for and against each question submitted solely to the voters of said town pursuant to any General Law, including but not limited to, section 21C of chapter 59 of the General Laws. The principal proponents of any such question shall coordinate the preparation and submission to the board of selectmen of one argument, and the principal opponents of any such question shall coordinate the preparation and submission to the board of selectmen of one argument. No argument shall contain more than 250 words. Said board of selectmen shall seek such written arguments from the principal proponents and opponents of each such question. Said board of selectmen shall designate a date by which written arguments must be received, in a written notice to the principal proponents and opponents. Said notice must be issued at least 14 days before the date by which the written arguments must be received. For the purposes of this act, the principal proponents and opponents of any such question shall be those persons determined by said board of selectmen to be best able to present the arguments for and against such question. The principal proponents or opponents of such a question may include a town officer or committee, and the principal proponents may include the first ten signers or a majority of the first ten signers of any petition initiating the placement of such question on the ballot. In determining the principal proponents and opponents of such a question, said board of selectmen shall contact each ballot question committee, if any, as defined in section 1 of chapter 55 of the General

Laws, organized specifically to influence the outcome of the vote on such question. If no argument is received by said board of selectmen within the time allowed by this Act, said town counsel shall prepare such argument. All arguments filed with or prepared by the board of selectmen pursuant to this Act, and the summary prepared pursuant to section 194, shall be open to public inspection at the office of the town clerk of said town.

**SECTION 287.** The official ballot shall include the summary and statement describing the effect of a yes or no vote as provided in section 285.

**SECTION 288.** Sections 285, 286 and 287 shall apply where the question presented involves the regional district of which the town of Lancaster is a member or involves a joint undertaking by said town of Lancaster and any one or more cities or towns.

**SECTION 289.** Notwithstanding any general or special law to the contrary, the state comptroller shall, in consultation with the office of consumer affairs and business regulation and the division of local services within the department of revenue, conduct a study of the feasibility of expanding the intercept program to cross-check the list, maintained by the office of the state comptroller for purposes of revenue intercept, of persons owing outstanding receivables to municipalities, including, but not limited to unpaid property taxes, against the records of persons holding licenses issued by the commonwealth to do business in the commonwealth, including, but not limited to licenses issued by the division of professional licensure. Such expansion shall include the authority to suspend or revoke said licenses until such delinquent receivable is paid to the municipality or municipalities in question. The comptroller shall file a report with the house and senate committees on ways and means and the clerks of the house and senate no later than September 1, 2004, detailing his findings. Said report shall include recommendations for legislation to grant any necessary authority to any state officer or state agency in order to better facilitate said expansion of the state intercept program.

**SECTION 290.** Notwithstanding chapter 7 of the General Laws or any other general or special law or regulation to the contrary, the division of capital asset management and maintenance may on behalf of the department of environmental protection renegotiate the department's facilities leases at One Winter Street, Boston and 627 Main Street, Worcester to obtain a reduced lease rate for those facilities for the remaining period of the existing leases, and to extend such leases for a period of up to 3 years beyond the 10 year limitation stipulated in said chapter 7.

**SECTION 291.** Notwithstanding any general or special law or regulation to the contrary, there shall be a special commission to study and report on methods to reduce the cost of transportation for students with disabilities to out-of-district special education placements. The commission shall consist of the co-chairs of the joint committee on education, arts, and humanities, who shall serve as chairs of the commission, and 1 representative each from the operational services division of the division of purchased services, the department of education, the Massachusetts Association of School Superintendents, the Massachusetts Association of School Committees, the Massachusetts Association for Special Education Ad-

ministrators, the Massachusetts Organization for Educational Collaboratives, the Massachusetts Association of 766 Approved Private Schools and the School Transportation Association of Massachusetts. The scope of the commission's inquiry shall include, but shall not be limited to: the regulation of reasonable and allowable transportation costs by the operational services division, the use of educational collaboratives to coordinate or provide transportation services to students with disabilities to out-of-district programs and the establishment of regulations by the department of education to permit the exchange of student information necessary to coordinate transportation routes to out-of-district programs. The commission shall submit its report to the house and senate committees on ways and means and the joint committee on education, arts, and humanities not later than January 30, 2005, along with drafts of any legislation.

**SECTION 292.** There is hereby established a special commission to analyze the regulation of assisted living facilities. The commission shall consist of 17 members, 3 of whom shall be members of the house of representatives, 1 of whom shall be appointed by the minority leader; 3 of whom shall be members of the senate, 1 of whom shall be appointed by the minority leader; the secretary of elder affairs or her designee; the commissioner of public health or her designee; 1 individual nominated by the Massachusetts Assisted Living Facilities Association; 1 individual nominated by Local 209 of the Service Employees Industrial Union; 1 individual nominated by MassAging; 1 individual nominated by the Massachusetts Extended Care Federation; 1 individual nominated by the Alzheimer's Association of Massachusetts and 1 individual nominated by AARP of Massachusetts; 2 residents of a facility licensed under chapter 19D of the General Laws and 1 family member of a cognitively impaired resident of a facility licensed under said chapter 19D. The nominations shall be submitted to the speaker and the senate president not later than 60 days from the effective date of this section and shall first meet in a location to be chosen by the secretary of elder affairs not later than 60 days thereafter. The commission shall issue a final report detailing its recommendations, including any proposed legislation or regulations it deems advisable, not later than January 31, 2005 and shall submit a copy of the report and drafts of legislation or regulations to the clerk of the house of representatives who shall forward the same to the joint committee on human services and elderly affairs.

**SECTION 293.** There is hereby established a special commission charged with reviewing, developing and implementing policies that create uniformity in all procurement activities conducted by the operational services division. The commission shall determine the costs currently being incurred through the utilization of agencies' internal personnel for office procurement purposes of those agencies in relation to the costs of consolidating all such activities under the authority of the operational services division; establish guidelines for implementation of consolidated and uniform procurement procedures as indicated by said comparison of agency-specific and consolidated policies; create a detailed report of estimated yearly savings generated by the development of uniform procurement procedures when applied to said agencies; and submit a report of the commission findings and policy recommendations to the House of Representatives no later than July 1, 2004.

Said commission shall consist of 6 members, 2 of whom shall be members of the house committee on post-audit and oversight, 2 of whom shall be members of the house committee on state administration, and 2 of whom shall be members of the house of representatives to be appointed by the speaker of the house.

**SECTION 294.** To increase further a sense of responsibility on the part of inexperienced drivers and to increase the safety of all legitimate users of the roadway system, including but not limited to, motorists, pedestrians, the disabled, bicyclists, and motorcyclists, the registry of motor vehicles shall undertake a study of their policies, programs, curricula, testing materials and publications to ensure that education requirements encompass the safety of all roadway users and such efforts to promote safety are integrated across all such policies, programs curricula testing materials and publications. The registrar shall convene a study commission by September 1, 2004 whose membership shall include the following: the registrar or his designee who shall serve as chair and as a non-voting member; a representative of the governor's highway safety bureau appointed by the secretary of public safety; 1 of 3 persons recommended by the Mass. Bicycle Coalition and appointed by the secretary of public safety; 1 of 3 persons recommended by Walk Boston and appointed by the secretary of public safety; a representative of the insurance industry appointed by the registrar; 1 of 3 persons recommended by the motorcycle interests and appointed by the secretary of public safety; the chairs of the house and senate committees on public safety or their designees; a representative of the driver education industry appointed by the registrar. The commission shall report to the secretary of public safety, the registrar of motor vehicles and to the clerk of the house of representatives who shall forward the same to the joint committee on public safety and the house and senate committees on ways and means on or before June 1, 2005.

**SECTION 295.** Notwithstanding the provisions of any general or special law to the contrary, the secretary of administration and finance shall study the feasibility of requiring each division and agency of the Commonwealth of Massachusetts to activate all TTY Messaging. Said study shall include analysis, recommendations and costs implications of: (1) requiring said activation for each active mailbox as compared to assigning at least one TTY enabled mailbox for each member's office and administrative unit of government; (2) requiring any work group that employs or may employ individuals with visual impairments to download and install helper applications that allow individuals who are blind or who have visual impairments to work job functions that require the perception of information that is only visually discernable on a telephone; (3) requiring any agency of the Commonwealth of Massachusetts that employs Interactive Voice Response self-service applications to include prompts that would allow individuals who use TTYs to communicate over the phone to access the self-service applications. Said study and all accompanying recommendations shall be submitted to the clerk of the house of representatives who shall forward the same to the house and senate committees on ways and means on or before October 1, 2004.

**SECTION 296.** Notwithstanding any general or special law to the contrary, the amount of \$216,000 shall be paid by the division of capital asset management and mainte-

nance in fiscal year 2005 to cover property tax costs associated with the Suffolk county district attorney's office lease of 1 Bullfinch place in the city of Boston. The division shall continue to pay any amount necessary for the office of consumer affairs' lease at 10 Park Plaza in the city of Boston. The division shall pay \$225,000 for the leases of modular units of the Hampshire county sheriff located at 205 Rock hill road in the city of Northampton.

**SECTION 297.** The department of housing and community development, in coordination with the executive office of health and human services, shall implement a statewide application system for all state public housing and, to the extent possible, other affordable housing resources. The commonwealth shall not be liable for any costs related to developing or implementing this system. The system shall permit application in multiple housing authorities and for multiple affordable housing programs and resources through the submission of a single application form, while allowing each housing authority and management company to make its own eligibility and preference determinations to the extent permitted by law. The department shall: (a) develop goals for such an application system including, but not limited to, a system that is user friendly, cost-free to the user, accessible to persons with disabilities, accessible to non-English speakers, accessible to the general public, ensures protection of personal privacy, provides a single point of entry application process to as many affordable housing units in as many different types of programs and developments as possible, and provides a comprehensive, searchable database of affordable housing units; (b) develop specifications for a system meeting the goals described in this section; and (c) determine whether existing systems or technology meet the goals described in this section or whether new systems or technology need to be developed to meet these goals. The department shall file a report of its findings and recommendations, and its progress in implementing this system, with the house and senate committees on ways and means and the joint committee on housing and urban development not later than March 31, 2005. The department shall implement the statewide application system established by this section no later than December 31, 2005.

**SECTION 298.** (a) This section applies to any town in Barnstable county that has a Cape Cod Open Space Land Acquisition Program established pursuant to chapter 293 of the acts of 1998, and any such town may adopt this section in accordance with the procedures set forth in subsection (b) or (c). The adoption of this section by a town shall constitute the acceptance by the town of sections 3 to 7, inclusive, of chapter 44B of the General Laws, otherwise known as the Massachusetts Community Preservation Act, and shall result in the town having all powers and rights granted by, and being subject to all duties, obligations and restrictions imposed under, said chapter 44B to the same extent as if the town had adopted said sections 3 to 7, inclusive, of said chapter 44B, except as otherwise provided in this section.

(b) Any such town may adopt this section upon the approval thereof by the town meeting of the town or, in the case of the town of Barnstable, by the town council of the town, and the approval thereof by the voters of a ballot question as set forth in subsection (c).

(c) Upon the approval of this section by the town meeting of a town or, in the case of the town of Barnstable, by the town council of the town in accordance with the provisions of subsection (b) the town clerk or the secretary of state, as applicable, shall place the question of approval of the provisions of this section on the ballot at the next regular municipal election held more than 35 days after such approval or certification, as applicable, or at the next regular state election held more than 60 days after such approval or certification, as applicable, in the form of the following question:

"Shall the Town of \_\_\_\_\_ adopt section \_\_\_\_\_ of Chapter \_\_\_\_\_ of the Acts of 2004, (as approved by the town meeting/council), a summary of which appears below?"

("Acceptance of section of Chapter of the Acts of 2004 means the Community Preservation Act shall effectively replace the Cape Cod Open Space Land Acquisition Program. There shall be no additional excise on real property levied, other than the current 3 per cent levied for the provisions of the Cape Cod Open Space Land Acquisition Program. Acceptance of this section shall allow the community to access state matching funds of up to 100 per cent of the excise on real property currently levied, which was previously unavailable to the town.")

If a majority of the voters voting on said question vote in the affirmative, then the provisions of this section as approved by the town meeting or town council, as applicable, shall take effect in the town, but not otherwise.

(d) Notwithstanding chapter 293 of the acts of 1998 to the contrary, the excise on real property in an amount equal to 3 per cent of the real estate tax levy against said property levied pursuant to section 6 of chapter 293 of the acts of 1998, in connection with the town's Cape Cod Open Space Land Acquisition Program shall terminate at the end of the fiscal year of the town in which the voters of the town vote to approve the adoption of this section pursuant to subsection (c). In the fiscal year of the town following the fiscal year in which the voters of the town vote to approve the adoption of this section, the town shall impose a surcharge on real property in the amount equal to 3 per cent of the real estate tax levy against said property for the purposes of and in accordance with said chapter 44B. Notwithstanding section 16 of said chapter 44B to the contrary, the town may not amend the amount of or revoke such surcharge on real property in accordance with section 16 of said chapter 44B until fiscal year 2020.

(e) On the first day of the fiscal year following the fiscal year in which the voters of a town approve the adoption of this section in accordance with subsection (c), the town shall establish a separate account to be known as the Community Preservation Fund in accordance with and pursuant to section 7 of said chapter 44B. Notwithstanding chapter 293 of the acts of 1998 to the contrary, the town shall simultaneously extinguish its separate account known as the Land Bank Fund established pursuant to section 5 of Chapter 293 of the Acts of 1998. Without further appropriation by the town, the town shall simultaneously transfer all amounts then on deposit in its Land Bank Fund to its Community Preservation Fund, and all investments thereof shall become investments of the Community Preservation Fund. In addition

to the amounts so transferred from the town's Land Bank Fund, the town shall thereafter deposit the following amounts into its Community Preservation Fund: (i) all amounts required to be deposited into the fund pursuant to section 7 of said chapter 44B; (ii) all receipts from the excise on real property levied pursuant to section 5 of chapter 293 of the acts of 1998 in any fiscal year prior to the fiscal year in which the Community Preservation Fund of the town is established pursuant to this subsection, and all interest thereon, which is received by the town after the establishment thereof, (iii) all proceeds of bonds or notes issued pursuant to section 7 of chapter 293 of the acts of 1998; and (iv) any other grants, donations or other amounts received by the town for the benefit of, for deposit in or for the purposes of the Land Bank Fund.

(f) Upon the adoption of this section by a vote of the voters of a town in accordance with subsection (c), the town's open space committee established pursuant to section 4 of chapter 293 of the acts of 1998 shall be abolished. Any town, which has so adopted this section, shall establish a community preservation committee by bylaw in accordance with section 5 of said chapter 44B. The community preservation committee shall have the rights and powers, and shall be subject to the duties, obligations and restrictions, set forth in section 5 of said chapter 44B.

(g) All amounts transferred to or deposited in the Community Preservation Fund of a town pursuant to subsection (e) shall be appropriated in every fiscal year in accordance with section 6 of said chapter 44B; provided, however, that any amount appropriated by the town from the Land Bank Fund in accordance with chapter 293 of the acts of 1998 prior to the vote of the voters of the town approving the adoption of this section pursuant to subsection (c) which has not been expended prior to the establishment of the Community Preservation Fund and the termination of the Land Bank Fund pursuant to subsection (e) shall be expended solely for the purpose of such appropriation pursuant to chapter 293 of the acts of 1998, and the vote of the town meeting or, in the case of the town of Barnstable, of the town council therefore. Any such amount expended from the Community Preservation Fund in accordance with a prior appropriation made pursuant to chapter 293 of the acts of 1998 shall not require a further appropriation of the town and the amount and purpose of such an expenditure shall not be taken into account for purposes of determining annual revenues of the Community Preservation Fund and compliance by the town with the minimum spending requirements prescribed in section 6 of said chapter 44B. No appropriation may be made from the Land Bank Fund by any town that adopts the provisions of this section after the date on which the voters of the town vote to approve the adoption of the provisions of this section pursuant to subsection (c). Any town that adopts this section may appropriate amounts from its Community Preservation Fund only after the establishment of such Fund pursuant to subsection (e) and after the establishment of its Community Preservation Committee pursuant to subsection (f).

(h) Any bonds or notes authorized by a town pursuant to section 7 of chapter 293 of the acts of 1998 prior to the vote of the voters of the town approving the adoption of this section pursuant to subsection (c) may be issued by the town pursuant to section 7 of chapter

293 of the acts of 1998 at any time prior to such vote. Notwithstanding section 7 of chapter 293 of the acts of 1998 and section 11 of said chapter 44B to the contrary, a town that has adopted the provisions of this section may pay any bonds and notes issued pursuant to section 7 of chapter 293 of the acts of 1998 from amounts on deposit in its Community Preservation Fund to the same extent as if such bonds or notes were issued pursuant to section 11 of said chapter 44B regardless of whether such bonds or notes were issued prior to or after the adoption of this section by the town. Any appropriation by a town for the payment of debt service on any such bonds or notes from amounts on deposit in its Community Preservation Fund shall constitute an expenditure for the acquisition, creation or preservation of open space and shall be made in accordance with and subject to the restrictions of section 6 of said chapter 44B; provided, however, that the town meeting or, in the case of the town of Barnstable, the town council may, upon the recommendation of the community preservation committee, appropriate and expend the entire amount needed to pay debt service on any such bonds or notes that were authorized by a vote of the town meeting or the or, in the case of the town of Barnstable, by the town council which was passed on or before June 30, 2005, even if the aggregate amount of such expenditures exceeds 80 per cent of the annual revenues of the town's Community Preservation Fund for historic resources and half of such remaining annual revenues for community housing.

(i) With respect to any town that adopts this section, any real property it acquired or acquires with funds appropriated pursuant to the provisions of chapter 293 of the acts of 1998 shall continue to be subject to the provisions thereof, and any real property it acquires pursuant to said chapter 44B shall be subject to the provisions of said chapter 44B.

(j) Any town that adopts this section may not thereafter independently adopt sections 3 to 7, inclusive, of said chapter 44B in accordance with the provisions thereof unless the town has previously voted to revoke the surcharge on real property as permitted pursuant to subsection (d). This section does not, however, (i) require any town in Barnstable County to seek the adoption thereof, (ii) prevent any such town from continuing to operate its Cape Cod Open Space Land Acquisition Program in accordance with chapter 293 of the acts of 1998, or (iii) prevent any such town from continuing to operate its Cape Cod Open Space Land Acquisition Program and independently adopting sections 3 to 7, inclusive, of said chapter 44B in accordance with the provisions thereof. Notwithstanding said chapter 44B to the contrary, any town that adopts this section after it has independently adopted sections 3 to 7, inclusive, of said chapter 44B shall be subject to said chapter 44B as adopted pursuant to and as modified by this section beginning in the fiscal year of the town following the fiscal year in which the voters of the town vote to approve the adoption of this section pursuant to subsection (c), and the surcharge on real property and the exemptions therefrom adopted pursuant to this section shall at such time replace the surcharge on real property and exemptions therefrom previously adopted by the town in accordance with said chapter 44B.

**SECTION 299.** There shall be a commission to study, make recommendations and propose any legislation related to the use, reuse, lease, sale, conveyance, or any disposition of any interest in the Hynes Memorial Auditorium and the Boston Common Parking Garage. The commission shall consist of 3 persons to be appointed by the governor, 1 of whom shall

be the chairperson of the Massachusetts Convention Center Authority or his designee, and 1 of whom shall be a representative of the Back Bay Association; 3 persons to be appointed by the mayor of the city of Boston, 1 of whom shall be the director of the Boston Redevelopment Authority, and 1 of whom shall be a representative of the Greater Boston Chamber of Commerce; 3 persons to be appointed by the president of the senate, 1 of whom shall be the senate minority leader, 1 of whom shall be the senate chairperson of the joint committee on state administration, and 1 of whom shall be a representative of the Greater Boston Convention and Visitors Bureau; and 3 persons to be appointed by the speaker of the house of representatives, 1 of whom shall be the house minority leader, 1 of whom shall be the house chairperson of the joint committee on state administration and 1 of whom shall be a representative of the Massachusetts lodging association. The house and senate chairpersons of the joint committee on state administration shall jointly chair the commission.

As part of its study and in making its recommendations the commission shall consider the following: (i) a comprehensive and coordinated strategy and plan for the use, reuse, lease, sale, conveyance or disposition of the auditorium, including the development of air rights above the existing facility and the garage; (ii) the continued use of the Hynes as a convention center venue owned, operated and maintained by the Massachusetts Convention Center Authority after the opening of the Boston Convention and Exhibition Center; (iii) the use of the Hynes Convention Center for any other purpose, other than as a convention center venue or as a convention center with other mixed uses, by any public or private entity or a combination thereof; (iv) the state, city, community, and local business interests, including but not limited to hotel, retail, and restaurant interests involved and impacted by (a) the continued use of the Hynes Convention Center as a convention center by the Massachusetts Convention Center Authority, a private entity, or a combination thereof, or (b) by the reuse of the Hynes Convention Center property for a use other than as a convention center venue or a mixed use thereof; (v) the feasibility of continued use of the Hynes Auditorium as a convention center with secondary development of the property, as a joint public/private partnership with the Massachusetts Convention Center Authority, including the development of air rights above the existing facility, subject to applicable state and local laws; (vi) the ownership and operation of the Boston Common Parking Garage; (vii) the feasibility of the proceeds or a portion thereof of any sale, conveyance, or disposition of the Hynes Auditorium or the parking garage to be allocated to the Authority; and (viii) any other issues, studies, proposals or impacts that may be relevant, pertinent, or material to the study, analysis, and review of the commission. The commission shall solicit and consider advice and comments from elected state and city officials and representatives from neighborhood, professional, trade and business groups affected by the potential use, reuse, lease, sale, conveyance or disposition of any interest in the Hynes Convention Center.

The commission shall prepare a final report of its findings resulting from its study, including legislative recommendations. The commission shall file the report with both the

clerks of the house of representatives and the senate and shall also submit a copy of the report to the governor, the president of the senate, the speaker of the house, and the chairpersons of the committee on ways and means and the joint committee on state administration on or before December 30, 2005. No reuse, lease, or conveyance, as recommended by the commission, shall occur without prior approval of the general court.

**SECTION 300.** Notwithstanding the provisions of any general or special law to the contrary, the group insurance commission shall report on the feasibility of developing and implementing a voluntary health care plan for employees of private health and human service providers who deliver services under contract with departments within the executive office of health and human services and the executive office of elder affairs with no administrative and programmatic costs to the commonwealth; provided, however, that said report shall include providers who deliver services by rate; provided further, that said commission, in consultation with the executive office of health and human services, the executive office of elder affairs and the department of public health, shall report on the eligibility criteria required for the service providers in the plan and shall report on the costs of maintaining a separate health care risk pool for individuals in the plan; provided, however, that such report shall be predicated upon the requirement that health care costs and administrative costs of the plan shall be paid by eligible service providers and their employees; provided further, that said commission shall be authorized to develop a methodology to garnish human service contracts from other state agencies for such participating providers to facilitate implementation of the plan and to recoup administrative and premium costs; provided further, that said report shall include, but not be limited to the following: (1) the number of covered lives to be enrolled in said plan, (2) the number of employees to be enrolled in said plan who previously had no health coverage, (3) the total health care expenditures of said plan, and (4) the premium amounts of said plan; provided further, that said report shall be filed with the clerks of the house and senate and the house and senate committees on ways and means on or before January 1, 2005; and provided further, that the Commonwealth shall not be obligated for any costs incurred by said report.

**SECTION 301.** There is hereby established a commission to study investigations of abuse of the disabled. The commission shall consist of 3 members of the senate appointed by the president of the senate, and 3 members shall be members of the house of representatives appointed by the speaker of the house of representatives. The commission shall study cases of abuse of the disabled, including, but not limited to, the following: clients of the department of mental retardation, department of mental health, Massachusetts rehabilitation commission, Massachusetts commission for the deaf and hard of hearing, Massachusetts commission for the blind, and other departments serving the disabled citizens of the commonwealth. The commission shall report its recommendations, if any, to the clerks of the house of representatives and senate no later than November 15, 2003.

**NO SECTION 302.**

**SECTION 303.** Notwithstanding any general or special law to the contrary, in fiscal year 2005, the comptroller shall transfer from the Uncompensated Care Trust Fund account

established pursuant to subsection (p) of section 18 of chapter 118G of the General Laws, an amount sufficient to reflect the costs of the assessment on public facilities and an amount sufficient to fund rate increases for services provided to MassHealth members by non-public intermediate care facilities and community based residences. The comptroller shall transfer the federal financial participation received as a result of expenditures funded by the assessments to an account established for the department of mental retardation to administer for the purposes described above. The assessments and federal financial participation collected pursuant to section 27 of chapter 118G of the General Laws shall be expended to fund payments for services provided to MassHealth members by intermediate care facilities for the mentally retarded and community based residences. The assessments shall not be collected, and the expenditures required by this act shall not be authorized until the department of mental retardation and division of medical assistance certify the receipt of federal approval of any home and community based waiver amendments and related Title XIX state plan amendments, if required.

**SECTION 304.** Notwithstanding any general or special law to the contrary, the executive office of health and human services shall annually prepare a public health access program beneficiary employer report. For the purposes of this section, a "public health access program beneficiary" shall mean a person who receives medical assistance or medical benefits under chapter 118E of the General Laws or a person who receives health care services that qualifies as free care pursuant to chapter 118G of the General Laws. The report shall provide the following information for each employer of 50 or more public health access beneficiaries: (1) The name and address of the employer; (2) the number of public health access program beneficiaries who are employees of the employer; (3) the number of public health access program beneficiaries who are spouses or dependents of employees of the employer; (4) whether the employer offers health benefits to its employees; and (5) the cost to the Commonwealth of providing public health access program benefits for their employees and enrolled dependents. The report shall not include the names of any individual public health access program beneficiaries and shall be subject to privacy standards pursuant to Public Law 104-191, and the Health Insurance Portability and Accountability Act of 1996. The report shall be submitted annually on February 1 to the clerk of the house of representatives who shall forward the same to the joint committee on health care and the house and senate committees on ways and means.

**SECTION 305.** Notwithstanding any general or special law to the contrary, the executive office of health and human services shall submit on or before February 1, 2005 to the house and senate committees on ways and means a report detailing the cost-effectiveness of the drug prior authorization program, including an analysis of: (a) the direct cost of the prior authorization program; (b) the estimated amount, if any, of cost shifting to physicians in terms of additional time spent in obtaining authorization for a selected course of therapy; (c) internal program costs shifting, if any, including but not limited to additional prescriptions, laboratory tests, physician visits, hospitalization, and skilled nursing care that are associated with implementation of the prior authorization program, (d) whether the prior

authorization program is adequately meeting the needs of patients to obtain needed medications in a timely manner, which will include an analysis of the length of time it takes for the prior authorization program to approve or deny requests for prescriptions, and an examination of the grievance mechanism for interested parties to appeal any decision made by the executive office of health and human services, including the number of appeals, and the outcome of such appeals. The report shall include all therapeutic classes that are currently subject to prior authorization. Any contractor retained to develop and prepare the report shall not be related to any contractor retained by the state to develop and implement the prior authorization program.

**SECTION 306.** Notwithstanding any general or special law or regulation to the contrary, the division of medical assistance may expend, subject to federal approval, an amount not to exceed \$16,000,000 from the medical assistance intergovernmental transfer account within the medical assistance intergovernmental uncompensated care trust fund for Title XIX payments to Neighborhood Health Plan. The payments shall be established in accordance with Title XIX of the federal Social Security Act, or any successor federal statute, any regulations promulgated thereunder, the Commonwealth's Title XIX state plan, and the terms and conditions of agreements reached with the division for such payments. No such funds shall be expended unless Neighborhood Health Plan has executed a managed care contract with the division of medical assistance and makes an intergovernmental funds transfer in an amount specified in an agreement, which amount shall be not less than 50 per cent of the Title XIX payment. All revenues generated pursuant to the provisions of this section shall be credited to the medical assistance intergovernmental transfer account and administered in accordance with the provisions of subsection (o) of section 18 of chapter 118G of the General Laws.

**SECTION 307.** Notwithstanding any general or special law to the contrary, the division of medical assistance may expend an amount not to exceed \$16,000,000 from the medical assistance intergovernmental transfer account within the Uncompensated Care Trust Fund for Title XIX payments to certain publicly-owned or publicly-operated providers. The payments shall be established in accordance with Title XIX of the Social Security Act, or any successor federal statute, any regulations promulgated thereunder, the commonwealth's Title XIX state plan and the terms and conditions of agreements reached with the division for such payments. No funds shall be expended unless a public entity is legally obligated to make an intergovernmental funds transfer in an amount specified in an agreement with such entity, which amount shall not be less than 50 per cent of the Title XIX payment. All revenues generated pursuant to this section shall be credited to the medical assistance intergovernmental transfer account and administered in accordance with subsection (o) of section 18 of chapter 118G of the General Laws.

**SECTION 308.** Notwithstanding the provisions of any general or special law to the contrary, the executive office of health and human services pursuant to section 16 of chapter 6A of the General Laws, acting in its capacity as the single state agency under Title XIX of

the Social Security Act, and other federally assisted programs administered by said secretariat, and as the principal agency for all of the agencies within the secretariat, is authorized to enter into interdepartmental service agreements with the university of Massachusetts medical school to perform such activities as the secretary, in consultation with the comptroller, determines are appropriate and within the scope of the proper administration of said Title XIX and other federal funding provisions to otherwise support the programs and activities of the executive office. Such activities shall include, but not be limited to: (1) provision of administrative services, including, but not limited to, activities such as providing the medical expertise to support or administer utilization management activities, determining eligibility based on disability, supporting case management activities and similar initiatives; (2) consulting services related to quality assurance, program evaluation and development, integrity and soundness, and project management; (3) activities and services for the purpose of pursuing federal reimbursement or avoiding costs, third party liability and recouping payments to third parties; and (4) programs to maximize federal financial participation to municipalities which make certified public expenditures to hospitals pursuant to said Title XIX regulations. Such activities and programs shall also include providing consulting services to providers in geographic areas with high rates of uninsured and Medicaid recipients, including but not limited to the city of Lawrence, the city of Holyoke, the Dorchester section of the city of Boston, the city of Haverhill, and the city of Quincy, in order to maximize available federal revenues permissible under federal law. Federal reimbursement for any expenditures made by the university of Massachusetts medical school relative to federally-reimbursable services said school provides under said interdepartmental service agreements or other contracts with the executive office of health and human services shall be distributed to said university. The secretary may negotiate contingency fees for activities and services related to the purpose of pursuing such federal reimbursement or avoiding costs, and the comptroller shall be directed to certify said fees and pay upon the receipt of such revenue, reimbursement or demonstration of costs avoided; provided however that the secretary shall not pay contingency fees in excess of \$30,000,000 for state fiscal year 2005. The secretary of health and human services shall submit to the secretary of administration and finance and the house and senate committees on ways and means a quarterly report detailing the amounts of the agreements, the ongoing and new projects undertaken by UMass medical school, the amounts spent on personnel and the amount of federal reimbursement and recoupment payments that said university was able to collect.

**SECTION 309.** (a) Notwithstanding any general or special law to the contrary, the executive office of health and human services shall develop and issue a request for proposals no later than March 31, 2005, to outsource the delivery of the MassHealth dental program benefits to a third party administrator. The third party administrator shall be an experienced dental benefits administrator capable of maintaining an adequate dental provider panel to provide access for MassHealth clients in a cost-effective manner.

(b) The executive office of health and human services shall utilize the information

it collected to assist in the development of a request for proposals to seek a third party administrator for the MassHealth dental program. The executive office of health and human services shall design the third party administered MassHealth dental program with features consistent with a private dental benefits plan.

(c) Before awarding a contract for the services of a third party administrator for the MassHealth dental program, the executive office of health and human services shall file a report with the senate and house committees on ways and means no later than January 15, 2006 regarding the anticipated costs and benefits of contracting with the administrator.

**SECTION 310.** Notwithstanding any special or general law to the contrary, the secretary of health and human services may make expenditures from items 4000-0430, 4000-0500, 4000-0600, 4000-0620, 4000-0700, 4000-0860, 4000-0870, 4000-0875, 4000-0880, 4000-0890, 4000-0891, and 4000-1400 of section 2, for activities relating to disability determinations or utilization control and review, including patient screenings and evaluations, regardless of whether such activities are performed by a state agency, contractor, agent or provider; provided however, that the sum of all said expenditures from all said items shall not exceed a total of \$3,000,000.

**SECTION 311.** Notwithstanding any general or special law to the contrary, after October 1, 2004, the registrar of motor vehicles shall not issue licenses under sections 8, 8A or 8A½ of chapter 90 of the General Laws, permits under section 8B of said chapter 90, or identification cards under sections 8E or 8G of said chapter 90, that bear the applicant's social security number assigned under 42 U.S.C. section 405, unless the applicant has consented to have his license, permit or identification card bear his social security number instead of an alternative number.

**SECTION 312.** Notwithstanding any general or special law to the contrary, the authority of the board of education to grant commonwealth charters to an applicant pursuant to section 89 of chapter 71 of the General Laws shall be suspended until July 31, 2005 or until such time as a new tuition formula consistent with the recommendations of the house and senate working group authorized in this section has become law, whichever is sooner. During the period of suspension, the board shall not authorize additional enrollment, beyond that approved by the board before January 1, 2004, in any existing or previously authorized commonwealth charter school. Further, the approval of the commonwealth charters by the name of the Advanced Math and Science Academy Charter School, Community Charter School of Cambridge, KIPP Academy Lynn Charter School, Berkshire Arts and Technology Charter School and the Salem Academy Charter School made before the effective date of this section shall be suspended and the charter schools so named shall not be allowed to open until the department of education, after this period of suspended authority, conducts a full review of the application and authorization process of the commonwealth charters named above to insure that the letter and spirit of the laws governing those processes have been followed by the department and the board of education.

There shall be a house and senate working group to study all aspects of, make recommendations on how to improve and develop legislation to change the current tuition

financing system for charter schools. The first meeting of the working group shall take place within 30 days after the effective date of this section. The working group shall consist of the speaker of the house of representatives, or his designee, the president of the senate, or his designee, the minority leaders of the house and senate, or their designees, the house and senate chairs of the joint committee on education, arts and humanities and the chairs of the house and senate committee on ways and means.

Based on the findings of its study, the working group shall make recommendations on how the existing financing system can be improved in order to more closely align the funds sent to charter schools from state and local sources with the funds that would have been expended on the education of the charter school students if they remained in the districts from which they are drawn. The recommendations shall reflect actual costs associated with the grade level, program participation and demographic profile of students attending charter schools, including all capital costs, transportation costs and other factors which contribute to the actual cost of educating these students. The working group shall also examine the relationship between charter school funding and state education funding under chapter 70 of the General Laws, and shall ensure that any recommendations for changes in charter school funding are consistent with the principles, objectives and formulas embodied in the funding formula under said chapter 70. Any legislation proposed by the working group shall require that funding be reflective of the grade level, program participation and demographic profile of the actual students enrolled in charter schools. The working group shall compile data which shall compare the demographic profile and educational needs that characterize charter school students with those that characterize students in the districts from which they are sent. The working group shall solicit advice from such persons and entities as it deems necessary, including the department of education, as well as associations representing superintendents, school budget officers, municipal officials and charter schools. The working group shall file a report containing its recommendations, including legislation necessary to carry out its recommendations, with the clerk of the house of representatives who shall forward the same to the joint committee on education, arts and humanities on or before December 1, 2004.

**SECTION 313.** Notwithstanding any general or special law to the contrary, the division of medical assistance may develop or amend any standards and regulations applicable to personal care attendant services as the division determines to be necessary and appropriate for the proper and efficient operation of the medical assistance and medical benefits programs administered under chapter 118E of the General Laws. Said developments or amendments shall be reviewed by a study commission comprised of 3 members of the house of representatives, 2 appointed by the speaker, 1 by the minority leader; 3 members of the senate, 2 appointed by the senate president, 1 by the minority leader; 1 representative from the division of medical assistance; 1 representative of the governor's commission on people with disabilities, 1 representative of the Massachusetts office on disability; and 1 representative of the statewide independent living council. The commission shall be charged with examining the current practice of determining eligibility and degree of need for personal

care attendant services and shall identify options to maximize efficiencies and cost savings in the program. Said options shall include, but not be limited to: (1) requiring a registered nurse or other clinical professional to evaluate the personal care attendant needs of an individual; and (2) requiring the division of medical assistance to certify any diagnosis that would require more than 30 hours per week of personal care attendant services. Said commission shall submit their findings to the house and senate committees on ways and means and the house committee on Medicaid by December 15, 2004. The division of medical assistance shall consult and collaborate with members of the commission and personal care attendant program stakeholders in the development of any substantive change to the personal care attendant program and shall regularly communicate on personal care attendant issues with the personal care attendant program stakeholders including through regular meetings.

**SECTION 314.** Notwithstanding any general or special law to the contrary, the executive office of health and human resources may seek a waiver under the titles XIX and XXI of the Social Security Act to expand MassHealth comprehensive family planning services for individuals whose income is at least up to 200 percent of the federal poverty level. Said division shall only seek a waiver if it determines that the expansion would be cost neutral to the commonwealth and would not incur a deficiency in any item funded in section 2. The waiver shall at least include those services currently covered as comprehensive family planning services, including comprehensive medical and gynecological examinations, contraceptive counseling and methods, sexually transmitted disease testing and treatment, screening for breast and cervical cancer, related laboratory screenings, nondirective counseling and referral for pregnancy and prenatal care, infertility and other health related issues. The division shall notify the house and senate ways and means committees within 10 days of the filing of a waiver with the centers for Medicare and Medicaid Services and shall notify the committees within 10 days of approval of the waiver.

**SECTION 315.** Notwithstanding any general or special law to the contrary, the executive office of health and human services shall submit a report to the house and senate committees on ways and means detailing projected expenditures for fiscal years 2005 and 2006 for items 4000-0112, 4000-0115, 4000-0300, 4000-0320, 4000-0430, 4000-0500, 4000-0550, 4000-0600, 4000-0620, 4000-0625, 4000-0700, 4000-0860, 4000-0870, 4000-0875, 4000-0880, 4000-0890, 4000-0891, 4000-0895, 4000-0990 and 4000-1400. In identifying the projected expenditures, the report shall account for any and all assumptions used to project promulgated or projected changes in provider payment rates, average per-member-per-month expenditure amounts, and the methods used to estimate current and prospective beneficiary enrollment and benefit utilization trend. The report shall include monthly member-month caseload, date-of-service and date-of-payment expenditure data by provider type and health benefit plan; provided further, that the report shall detail by item of appropriation any updates or budgetary revisions made subsequent to the governor's budget submission for fiscal year 2006 recommendations, including, but not limited to, any assumptions used to develop the recommendations. The report shall be submitted not later

than February 15, 2005.

**SECTION 316.** Notwithstanding subsection (i) of section 89 of chapter 71 of the General Laws or any other general or special law to the contrary, the commissioner of education may assess additional charter school tuition charges to the Hull, Nauset, and Up Island school districts' net school spending not to exceed 13 per cent of the Hull school district's net school spending, 12 per cent of the Up Island school districts net school spending and 11 per cent of the Nauset regional school district's net school spending in order to provide for the continuing education of students from said districts enrolled in charter schools as of October 1, 2004.

**SECTION 317.** (a) Subject to appropriation, there shall be in the executive office of elder affairs the office of pharmaceutical information pursuant to section 4C of chapter 19A of the General Laws for the purpose of providing information to residents of the commonwealth regarding the purchase of prescription drugs.

(b) Notwithstanding any general or special law to the contrary, the office of pharmaceutical information shall act as a central agency through which residents of the commonwealth may obtain information on procuring prescription drugs at reduced prices. This information shall then be made available on a website that shall contain links to licensed pharmacies that are able to provide discounted prescription drugs to residents of Massachusetts.

(c) The office, in providing advice on purchasing prescription drugs, shall establish relationships only with suppliers that are licensed by appropriate United States and individual state and federal agencies. The office shall maintain a registry providing the name, place of business, phone number, fax number, or email address of: the establishment, the manufacturers of the drugs the establishments distribute and of any of the establishment's agents in the United States. The office shall periodically update this information on the establishments on the website.

(d) The office shall provide advice only on prescription drugs that have been approved by the Food and Drug Administration, and the office shall advise only on prescription drugs that are packaged and shipped using tamper-proof containers and are provided by pharmacies located in the United States, subject to all state and federal regulations.

(e) In order to ensure the safety of prescription drugs procured from participating pharmacies, the office will only work with consumers in the commonwealth who are purchasing prescriptions that:

- (i) are for personal use only
- (ii) will not be used for resale
- (iii) are for a quantity limited to 90 days or less
- (iv) accompanied by a copy of a valid prescription

(f) The office may conduct, or contract with an entity to conduct, a study of prescription drug prices pursuant to this bill. The study may include, but not be limited to, evaluation of the participating pharmacy's compliance with state and federal laws.

(g) The office may serve as a central agent to which any safety concerns or adverse events occur regarding the process of procuring medications may be reported by Massachusetts consumers and health care professionals. If any safety concerns or adverse events occur with respect to the process of procuring prescriptions from approved sources, such as if a particular distributor is found to no longer meet the required safety standards, a safety report of the problem shall be filed and submitted to the Board of Registration in Pharmacy. Consumers and health care providers in the database will be notified of the safety reports by the office.

(h) The office of pharmaceutical information may promulgate a consent agreement explaining the potential risks and injuries associated with obtaining services, materials, or information from the office and disclaiming liability for those risks and injuries. The office may require any resident of the commonwealth to sign the consent agreement before receiving services, information or materials from the office. The office shall keep any signed consent agreement on file.

(i) The office of pharmaceutical information may develop an indemnification agreement designed to indemnify the office for any injury or damage that results from a resident's use of a supplier's product, and hold harmless any pharmacists who rely upon the information contained in the website to advise consumers. The office may require any supplier listed with the office to sign the indemnity agreement before its products are listed with the office. The office shall keep any signed indemnification agreement on file. Chapter 258 of the General Laws shall apply to this section.

(j) the Executive Office of Elder Affairs shall amend or promulgate regulations as necessary to implement this section, including but not limited to, the process by which the office of pharmaceutical information may determine which pharmacies would be included on the informational website; the certification process, if any, that Massachusetts pharmacists would participate in before advising patients seeking assistance; and any other rules and regulations necessary for implementation of this section.

**SECTION 318.** Notwithstanding any general or special law to the contrary, the department of revenue shall conduct an investigation pursuant to the recommendations made by the office of the inspector general in a report dated January 23, 2004 to determine whether any tax credits previously authorized under section 38N of chapter 63 of the General Laws should be recaptured by the commonwealth. Said department shall file a report with the house and senate committees on ways and means no later than September 1, 2004 on the findings of said investigation. Any revenue generated, up to an amount not to exceed \$10,500,000, from the recapturing of any tax credits shall be made equally available by the comptroller for direct services funded through the department of transitional assistance and the department of social services for expenditure on programs authorized in items of appropriation in section 2 of this act; provided, that said comptroller shall send written notification to the department of transitional assistance, the department of social services and the house and senate committees on ways and means 90 days before any funds are transferred; provided further, that 60 days after receiving said notification, said departments

shall file with the house and senate committees on ways and means a schedule of how any such recaptured funds shall be allocated to items of appropriation authorized in section 2 of this act.

**SECTION 319.** Notwithstanding the provisions of subsection (n) of section 548 of chapter 26 of the acts of 2003 or any other general or special law to the contrary, the commissioner of the division of capital asset management, when selling, leasing, subleasing, granting easements, or otherwise directly or indirectly conveying a real estate interest relating to the former Medfield State Hospital, shall require the purchaser, lessee or grantee, to compensate the Commonwealth for such interest by providing community housing units for clients of the department of mental health in accordance with criteria set forth in a memorandum of agreement to be entered into by said division and said department. Such units may be provided on the site of the real estate interest being conveyed or within communities served by the Metro Suburban Area of the department of mental health. In order to ensure that substantial benefit is derived for clients of the department of mental health from the disposition of the real estate of the former Medfield State Hospital, the commissioner of the division of capital asset management and maintenance and the commissioner of the department of mental health shall jointly evaluate the proposals to ensure such proposals meet the criteria set forth in the memorandum of agreement described above.

**SECTION 320.** Notwithstanding any general or special law to the contrary, a solid waste facility shall not be sited within nor shall a permit be granted for the establishment, construction, expansion, maintenance, or operation of a solid waste facility within the Zone II area of contribution, as said term is defined by section 22.02 of title 310 of the code of Massachusetts regulations, of an existing public water supply well; provided, however that such a prohibition shall only apply to any proposed solid waste facility located at any place in the city of Brockton, which had not received a site assignment on or before January 1, 2004.

**SECTION 321.** Notwithstanding any general or special law to the contrary, the executive office of elder affairs, in collaboration with the executive office of health and human services, shall by December 1, 2004 apply for an expansion of the section 2176 home and community based waiver. This application shall seek to expand the income eligibility of the section 2176 waiver to up to 300 per cent of the federal benefit rate under the supplemental security program.

This expansion shall seek to maximize federal financial participation for expenditures authorized in item 9110-1500. Benefits under the section 2176 waiver shall be available to individuals up to the maximum income level provided in the approved waiver; provided, that the asset test in the waiver program shall be not less than \$20,000. The executive office of elder affairs shall first enroll members currently receiving benefits through the enhanced community options program into placements made available as a result of the expanded waiver and shall offer members under the waiver a choice of receiving benefits in their home, community based setting or nursing home, whichever is the least restrictive once said waiver

is granted and implemented. The executive office of elder affairs shall submit a report to the house and senate committees on ways and means and the secretary of administration and finance by March 1, 2005 on the status of the waiver application. The report shall detail, at a minimum, the progress of the waiver application, and if applicable, the number of individuals enrolled under this waiver for each month since the waiver was obtained, the number of individuals remaining in the enhanced community options program, and the amount of federal financial participation received or anticipated to be received as a result of approval of the waiver. Said expansion shall be at no net cost to the state.

**SECTION 322.** Notwithstanding any general or special law to the contrary, where (i) 2 spouses married to each other are both members of the same or different systems, (ii) each of the spouses were members in service on or before November 1, 2003, and (iii) 1 of the 2 members is retired under the provisions of sections 1 to 28, inclusive, of said chapter 32; then the other member, upon his or her written application to the board, shall be retired for superannuation regardless of such member's age. The retirement of the other member shall occur on a date specified in the application, and must be subsequent to, but not more than, 4 months after the date of filing the application. The form of the application shall be prescribed by the board. Terms used in this section not herein defined are used as such terms are defined in chapter 32 of the General Laws.

**SECTION 323.** Any funds expended by the trial court for the construction of a permanent or temporary courthouse in Hampshire county shall be for the construction or rent of that courthouse in the town of Belchertown, and no funds shall be expended by the trial court for the construction or rent of a courthouse in Hampshire county unless the site for the courthouse is located in the town of Belchertown. No funds shall be expended by the trial court for any permanent or temporary courthouse construction in Hampshire county until the final completion of the construction, restoration and repair projects for the trial court facilities in the town of Plymouth and the cities of Taunton and Worcester.

**SECTION 324.** Notwithstanding any general or special law to the contrary, the chief medical examiner established pursuant to chapter 38 of the General Laws or any district medical examiner's appointed pursuant to said chapter shall provide health care providers with timely autopsy information on patients who expire in their care for the purposes of quality assurance and improvement; provided that, the chief medical examiner or any district medical examiner shall not be required to submit said information if there is a law enforcement investigation of the death; and provided further that, any information transferred complies with all state and federal privacy laws.

**SECTION 325.** Notwithstanding any general or special law to the contrary, the Plymouth retirement board may, in accordance with guidelines established by the public employee retirement administration commission, purchase the real property located at 89 Court street in the town of Plymouth for the purpose of the use of the property for the administrative office of the Plymouth retirement board, and may purchase or lease equipment and employ any such personnel necessary for the proper administration and transaction of business of the retirement system.

Notwithstanding any general or special law to the contrary, the Salem retirement board may, in accordance with guidelines established by the public employee retirement administration commission, purchase the real property located at 20 Central street in the city of Salem for the purpose of the use of the property for the administrative office of the Salem retirement board and may purchase or lease equipment and employ any such personnel necessary for the proper administration and transaction of business of the retirement system.

**SECTION 326.** Notwithstanding any general or special law to the contrary, there shall be a commission to study eligibility of the working disabled adults in the Common-Health program. The commission shall be co-chaired by the senate chair of the joint committee on health care and the chair of the house committee on Medicaid, and shall also include 3 members appointed by the senate president, including one member from the minority party, 3 members appointed by the speaker of the house, including one member of the minority party, the commissioner of the division of medical assistance or his designee, the commissioner of the division of health care finance and policy or his designee, the president of the Massachusetts chapter of Easter Seals or his designee, the president of the Boston Center of Independent Living or his designee. Said commission shall report its findings to the house and senate committees on ways and means, the joint committee on health care, and the house committee on Medicaid by October 1, 2004. Said report shall include an evaluation of the fiscal impact of an income or asset test that would restrict the eligibility of current CommonHealth participants to continue participating in the program.

**SECTION 327.** The division of fisheries and wildlife shall study the public safety and public health impact of the proliferation of beaver dams and resulting unattended pools of water in the counties of Berkshire, Franklin, Hampden, and Hampshire. Said department shall report their recommendations to the clerk of the house of representatives who shall forward the same to the joint committee on natural resources on or before January 3, 2005.

**SECTION 328.** The secretary of the office of consumer affairs and business regulation in consultation with the attorney generals office and the department of information technology shall study the practice of internet service providers scanning incoming email received in Massachusetts for the purpose of inserting third party advertisement content. The study shall include, but not be limited to the following: internet service providers related internal policies and practices, including period of data retention from scanned emails, access of data to third parties, and security of such data from third parties; the utilization of data by law enforcement; and the potential conflict with federal or international law. Said study shall be reported along with any recommendations for legislative actions to the clerk of the house of representatives who shall forward the same to the house and senate committees on science and technology, the joint and committee on commerce and labor, and the house and senate committees on ways and means, not later than December 31, 2004.

**SECTION 329.** There is hereby established a special commission, to consist of three members of the senate including minority representation, four members of the house of representatives including minority representation, the chief justice for administration and management of the trial court or his designee, and five persons to be appointed by the gov-

ernor, one of whom shall be a representative of the Massachusetts Bar Association, one of whom shall be a representative of the Massachusetts Medical Society, one of whom shall be a member of the Massachusetts Academy of Trial Attorneys and one of whom shall be a consumer of health care who is not a doctor or lawyer. Said commission is hereby authorized and directed to conduct an investigation into the feasibility of creating a specialized court for purposes of administering medical malpractice claims. Said commission shall, in the course of its investigation and study, consider, among other things it considers relevant, specialty courts within Massachusetts, efficiencies to be gained, expertise and training needed by jurors and jurists, use of information technology, the use of medical legal advisory panels, use of regional sites, court staffing needs and such other matters as the commission may deem relevant. Appointed members of the commission shall not be considered special state employees for the purpose of compliance with chapter 268A. The special commission shall submit a report to the governor, the speaker of the house of representatives, the senate president, and the chief justice of the supreme judicial court setting forth the special commission's findings, along with its recommendations and specific legislative proposals, no later than February 1, 2005. The special commission shall dissolve upon completion of its duties and obligations, as indicated by submission of its findings and recommendations.

**SECTION 330.** There shall be a special task force on medical malpractice insurance. The task force shall consist of 3 members of the senate including minority representation, 4 members of the house of representatives including minority representation, the commissioner of insurance, and 5 persons to be appointed by the governor, one of whom shall be a representative of the Massachusetts Association of Health Plans, one of whom shall be a representative of the Massachusetts Medical Society, one of whom shall be a member of the Massachusetts Academy of Trial Attorneys, one of whom shall be a representative of a medical malpractice insurer licensed in Massachusetts and one of whom shall be a consumer of health care who is not a doctor or lawyer. The task force shall, in the course of its investigation and study, consider reforms of the medical malpractice system in the commonwealth, including but not limited to appropriate measures of compensation for medical malpractice claims, procedures of medical malpractice claims resolution, methods of encouraging competition among medical malpractice insurers in the commonwealth and of attracting new insurers to the commonwealth, actuarial practices and rating methodologies, and appropriate levels of rate regulation. The task force shall review in its deliberations the work of the Institute of Medicine concerning patient safety, and shall consider the experiences of other states in forming its recommendations. Appointed members of the commission shall not be considered special state employees for the purpose of compliance with chapter 268A. The special task force shall submit a report to the governor, the speaker of the house of representatives, the senate president, and the chief justice of the supreme judicial court setting forth the special commission's findings, along with its recommendations and specific legislative proposals, by December 15, 2004. The special task force shall dissolve upon completion of its duties and obligations, as indicated

by submission of its findings and recommendations.

**SECTION 331.** Notwithstanding any general or special law or regulation to the contrary, there is hereby established a special commission to study and report on the revision of the Massachusetts Municipal Medicaid program to maximize federal Medicaid reimbursements for special education costs and the availability of private health insurance for medically necessary services to students with disabilities. Said commission shall consist of 3 members of the house of representatives, 3 members of the senate, one representative each from the department of education, the executive office of health and human services, the group insurance commission, the Massachusetts Association of School Superintendents, the Massachusetts Association for Special Education Administrators, the Massachusetts Organization of Educational Collaboratives and the Massachusetts Association of C766 Approved Private Schools, and the Massachusetts Association of Health Plans and Blue Cross Blue Shield of Massachusetts. The scope of the commission's inquiry will include, but not be limited to: revising the Massachusetts Municipal Medicaid program to maximize federal Medicaid reimbursements for the cost of special education services to Medicaid eligible students with disabilities and amending insurance law to provide that insurers cannot exclude medically necessary services solely because such services are included in a child's special education plan. The commission shall submit its recommendations to the clerk of the house of representatives who shall forward the same to the house and senate committees on ways and means and the joint committee on education, arts and humanities on or before January 30, 2005 along with drafts of any legislation.

**SECTION 332.** Notwithstanding any general or special law or regulation to the contrary, there is hereby established a special commission to study the establishment of regional grief counselors for city, town and regional school districts. Said commission shall be comprised of three members appointed by the speaker of the house including the house chair of the joint committee on education, three members appointed by the senate president including the senate chair of the joint committee on education, the secretary of the department of education or his designee, a designee from the Massachusetts Teachers Association, a designee from the Massachusetts Federation of Teachers, along with members of the medical profession. Said commission shall submit a report, including legislative recommendations, if any, to the clerk of the house of representatives who shall forward the same to the joint committee on education and the house and senate committees on ways and means by June 15, 2005.

**SECTION 333.** The department of housing and community development, in consultation with the department of elder services and the executive office of health and human services, shall study the conversion of units governed by chapter 667 for the low-income elderly, chapter 167 for the mentally ill and chapter 689 for the mentally retarded into chapter 200 low-income family units without repayment to the housing authority bonds sinking fund. The study shall include, but not be limited to, the following: the number and location of anticipated surplus housing units designated for the elderly; the reasons for such surplus, such as any actions taken by the governing housing authority that have contributed

to a surplus; the potential re-use of such units as assisted living, group home or other supported housing units; the condition of units proposed to be converted; the efforts of public housing authorities to re-let such units; the number and location of non-elderly public housing units currently designated by the department as over-housed; and any associated savings projections. The department shall submit its findings and recommendations to the clerk of the house of representatives who shall forward the same to the house and senate committees on ways and means on or before January 5, 2005.

**SECTION 334.** (a) Upon the request of the board of selectmen in a town, the city council in a plan E city or the mayor in any other city, the department of revenue may recalculate the minimum required local contribution, as defined in section 2 of chapter 70 of the General Laws, in the fiscal year ending June 30, 2005. Based on the criteria in this section, the department shall recalculate the minimum required local contribution for a municipality's local and regional schools and shall certify the amounts calculated to the department of education.

(b) A city or town that used qualifying revenue amounts in a fiscal year which shall not be available for use in the next fiscal year or that shall be required to use revenues for extraordinary non school-related expenses for which it did not have to use revenues in the preceding fiscal year or that has an excessive certified municipal revenue growth factor which is also greater than or equal to 1.5 times the state average municipal revenue growth factor may appeal to the department of revenue not later than October 1, 2004 for an adjustment of its minimum required local contribution and net school spending.

(c) If a claim is determined to be valid, the department of revenue may reduce proportionately the minimum required local contribution amount based on the amount of shortfall in revenue or based on the amount of increase in extraordinary expenditures in the current fiscal year, but no adjustment to the minimum required local contribution on account of an extraordinary expense in the budget for the fiscal year ending on June 30, 2005 shall affect the calculation of the minimum required local contribution in subsequent fiscal years. Qualifying revenue amounts shall include, but not be limited to, extraordinary amounts of free cash, overlay surplus and other available funds.

(d) If, upon submission of adequate documentation, the department of revenue determines that the municipality's claim regarding an excessive municipal revenue growth factor is valid, the department shall recalculate the municipal revenue growth factor and the department of education shall use the revised growth factor to calculate the preliminary local contribution, the minimum required local contribution and any other factor that directly or indirectly uses the municipal revenue growth factor. Any relief granted as a result of an excessive municipal revenue growth factor shall be a permanent reduction in the minimum required local contribution.

(e) Upon the request of the board of selectmen in a town; the city council in a plan E city or the mayor in any other city; or in a majority of the member municipalities of a regional school district which used qualifying revenue amounts in a fiscal year that shall not be available for use in the next fiscal year shall appeal to the department of revenue not later

than October 1, 2004 for an adjustment to its net school spending requirement. If the claim is determined to be valid, the department of revenue shall reduce the net school spending requirement based on the amount of the shortfall in revenue and reduce the minimum required local contribution of member municipalities accordingly. Qualifying revenue amounts shall include, but not be limited to, extraordinary amounts of excess and deficiency, surplus and uncommitted reserves.

(f) If the regional school budget has already been adopted by two-thirds of the member municipalities then, upon a majority vote of the member municipalities, the regional school committee shall adjust the assessments of the member municipalities in accordance with the reduction in minimum required local contributions approved by the department of revenue or the department of education in accordance with this section.

(g) Notwithstanding clause (14) of section 3 of chapter 214 of the General Laws or any other general or special law to the contrary, the amounts so determined shall be deemed to be the minimum required local contribution described in chapter 70 of the General Laws. The house and senate committees on ways and means and the joint committee on education, arts and humanities shall be notified by the department of revenue and the department of education of the amount of any reduction in the minimum required local contribution amount.

(h) If a city or town has an approved budget that exceeds the recalculated minimum required local contribution and net school spending amounts for its local school system or its recalculated minimum required local contribution to its regional school districts as provided by this section, the local appropriating authority shall determine the extent to which the community shall avail itself of any relief authorized under this section.

(i) The amount of financial assistance due from the commonwealth in fiscal year 2005 under said chapter 70 or any other law shall not be changed on account of any redetermination of the minimum required local contribution under this section.

(j) The department of revenue and the department of education shall issue guidelines for their respective duties under this section.

**SECTION 335.** Notwithstanding any general or special law to the contrary, Tewksbury hospital campus and all state owned land in the town of Tewksbury is hereby exempt from the provisions of section 548 of chapter 26 of the acts of 2003.

**SECTION 336.** Notwithstanding the provisions of any general or special law to the contrary, the public employee retirement administration commission shall review the current combined table of mortality and select a new table of mortality within 180 days of the effective date of this act.

**SECTION 337.** There shall be a special commission for the purpose of making an investigation and study relative to the prescribing of psychotropic drugs for children under the protection and care of the department of social services. The commission shall consist of 3 members of the senate, 5 members of the house of representatives, and 5 persons appointed by the governor. The commission shall report to the house of representatives and the senate the results of its investigation and study, and its recommendations, if any, together

with drafts of legislation necessary to carry its recommendations into effect by filing the same with the clerk of the house of representatives and clerk of the senate on or before the last Wednesday in December, 2004.

**SECTION 338.** Notwithstanding any general or special law or rule or regulation to the contrary, the secretary of administration and finance and the chief justice of administration and management of the trial court, in consultation with the state secretary, shall, not later than October 31, 2004, issue a request for purchase through the competitive bidding process for the provision of public records storage, except those records that receive federal reimbursement, for all state agencies within the jurisdiction of the governor and the trial court, respectively, in order to achieve cost saving, including, but not limited to, those associated with greater efficiencies in the use and payment of records storage, reduction in private office lease costs for administrative personnel, and for more efficient and accessible use of public office space by displacing records with administrative personnel. The secretary and the chief justice, in consultation with the state secretary, shall individually report, not later than March 31, 2005, a plan to improve public records storage and office space efficiencies to the clerk of the house of representatives who shall forward the same to the joint committee on state administration and to the house and senate committees on ways and means.

**SECTION 339.** Notwithstanding any general or special law to the contrary, there shall be a pilot program in Essex and Hampshire counties, subject to appropriation, to establish a community based juvenile/youthful justice program for the purposes of insuring the safety and security of the public and private schools of said counties, addressing the problems of juvenile and youthful violence, improving the services available to school-aged youth, insuring the effective use of resources by state and local law enforcement and social service agencies, and promoting collaboration among schools, local and state law enforcement agencies, private industry, municipalities, the probation department, and the departments of social services, youth services, mental health and public health. Said program shall assist in the development of school and community based programs that are designed to prevent violence and delinquency, develop techniques for the early identification of at-risk youth, divert non-violent youthful offenders from the juvenile or criminal justice system, and insure the availability of and access to community based rehabilitative services including, but not limited to, substance abuse services for youthful offenders when appropriate.

Notwithstanding any general or special law to the contrary, for the purpose of establishing, implementing, or carrying out said pilot program, employees and representatives of the following agencies and departments may discuss and exchange information concerning court records, investigations, court proceedings, and care, custody, education and treatment plans of juveniles and school-age persons under the age of 21 who attend elementary, junior high, or high schools in Suffolk or Plymouth county, public or private school systems designated by the superintendent of schools including but not limited to registered nurses employed by the schools, the probation department, the office of the district attorney, state or local police departments, the office of the sheriff, the department of youth

services, the department of social services, the department of mental health, the department of public health, and other social service providers. In no instance shall any aspect of an individual's confidential communications with a sexual assault counselor, as defined in section 20J of chapter 233 of the General Laws or otherwise, be shared among the aforementioned parties. Employees and representatives of the department of social services, the department of mental health, and the department of public health may share information regarding the existence of services, treatment plans, and the identity of providers; but said employees and representatives shall share privileged information only when authorized by order of the juvenile court in requests involving a child under the age of 17 and the district court for requests concerning adults. Finally, any privileged communication made to a psychotherapist, as defined in section 20B of said chapter 233, or the results of a court-ordered psychiatric examination shall be shared only when authorized by order of the juvenile court in requests involving a child under the age of 17 and the district court for requests concerning adults. The appropriate court shall notify the parent or guardian of a person whose privileged information is requested of his right to appear at the hearing regarding the request for access to said privileged information. Any agency or employee or representative thereof who, without authority, discloses or disseminates such information or uses such information for purposes not described in this section shall be punished by a fine of not more than \$5000.

The district attorneys of Essex and Hampshire counties shall submit a report to the house and senate committees on ways and means and the joint committee on the judiciary every 6 months on the activities, procedures, performance, operation, implementation and cost of each community based juvenile/youthful justice program established pursuant to this pilot program. Said district attorneys, in preparing the reports, shall consult with the office of the chief justice of the juvenile court, office of the commissioner of probation and department of social services.

**SECTION 340.** Notwithstanding the provisions of any general or special law to the contrary, the division of capital asset management and planning shall not execute any lease or land disposition agreement or deed of conveyance relative to the land and buildings owned by the commonwealth of Massachusetts located at the site of the Medfield State Hospital in the town of Medfield, until a proposed reuse plan, approved by the commissioner of the department of mental health and the secretary of the executive office of health and human services, is filed with the clerks of the house of representatives and the senate, and is approved by a joint resolution of the house and senate.

**SECTION 341.** Notwithstanding any general or special law to the contrary, the community college access grant program funded in item 7070-0065 shall henceforth be known as the Foster Furcolo Community College Access Grants program.

**SECTION 342.** Notwithstanding any general or special law to the contrary, Middlesex Community College shall name the first floor community meeting room located in the Federal Building on the Lowell campus in honor of Mr. Edwin Poitras, a distinguished

World War II war hero and member of the Lowell community. Suitable markers bearing such designation and a visual rendering of Edwin Poitras shall be erected by Middlesex Community College. The Middlesex Community College Board of Trustees shall promulgate policies and procedures governing the dedication or memorializing of any facility, building or room under the management and administration of Middlesex Community College.

**SECTION 343.** (a) Not later than January 15, 2005, the council on early education and care shall issue a request for proposals for up to 8 grants with funding for up to 12 communities to receive planning funding to develop a plan for universal voluntary, high-quality, publicly-funded early childhood education for all preschool-aged children within a community or region. In consultation with the council on early education and care, the board of early education and care shall authorize planning grants to be funded from monies appropriated in item 7062-0000. Two or more communities may submit a joint proposal for a regional system of universal voluntary, high-quality, publicly-funded early childhood education to all preschool-aged children in the region. Any community or set of communities wishing to respond to the request for proposals shall form a single local school readiness board, hereinafter referred to as "local school readiness board," which shall be responsible for developing and submitting the plan. The plan shall include:

(1) An assessment of the current and future supply and demand of early education services within the community or communities for children ages birth to 5, and identification of eligible providers in the community or communities, provided that when identifying eligible programs, local school readiness boards shall maximize family choice by preserving a mixed system of high-quality public and private community-based programs;

(2) Strategies to help programs meet and implement early childhood program standards and guidelines for preschool learning experiences published by the department of education and to help staff to achieve degree requirements;

(3) Strategies to ensure a variety of program options that include part-time and full-time programming, provision of comprehensive services, inclusion of children with special needs and services that are culturally appropriate to meet the diverse needs of children and families;

(4) Strategies for coordinating state funding for early childhood education with federal local and private early education and care funding;

(5) Strategies for successful transitions for children to early education and care programs from early intervention, home or infant and toddler programs, and to kindergarten or first grade from home or early education and care programs;

(6) Strategies for child care resource and referral agencies to inform families about access to early education and care programs;

(7) Identification of the needs of stay-at-home parents who choose not to participate in an early childhood education programs; and

(8) A description of the resources necessary to meet the objectives outlined in the plan.

(b) Local school readiness board membership shall consist of no fewer than 7 and no more than 21 members and shall include at least 1 consumer of early childhood services, the superintendents of the local or regional school districts serving kindergarteners in the communities applying for the grant, the chief appointed or elected officials of the cities or towns and other members selected from the following categories: a representative from the regional office of the office of child care services, the early childhood coordinator for the local school district, a member of the chamber of commerce or a representative of a local business, a pediatric health care provider, a provider of early education and care services, a family child care provider, a Head Start provider, a provider of early intervention services, a provider of special education services, a provider of children's mental health services, a kindergarten teacher, a representative of a child care resource and referral agency, a representative of a public library, a representative of a non-public school, and other faith based or community representatives with an interest in or knowledge of the needs of young children and families. Local school readiness board membership shall be broadly representative of the racial, ethnic and economic diversity of the community. Existing local councils, including Community Partnerships for Children councils, may become the local school readiness board, provided that they meet all necessary qualifications. Local school readiness boards shall be subject to state laws and regulations concerning open meeting requirements, including but not limited to section 23B of chapter 39 of the General Laws, and members of the boards shall not participate in any matter before the board, which may directly affect their, or their immediate family's, personal or professional financial interests.

**SECTION 344.** (a) There shall be an advisory committee on early education and care for the purpose of undertaking a study of those foundational and organizational elements that will allow the state to build a first-rate early education and care system that provides every 3 to 5 year old pre-school child access to a high quality early education and care program which meets professionally accepted standards, including, but not limited to, the early childhood program standards and guidelines for preschool learning experiences established by the board of education, is delivered by a well-trained early educator in a variety of public and private settings under the provisions of chapter 15D of the General Laws, and is in conjunction with special education services offered by the department of education and early intervention services offered by the department of public health, if applicable.

The advisory committee shall consist of 5 members appointed by the speaker of the house, one of whom shall be appointed co-chair of the committee, 4 members appointed by the senate president, 1 of whom shall be appointed co-chair of the committee, 1 member appointed by the senate minority leader, 1 person appointed by the Massachusetts Association of Community Partnerships for Children, 1 person appointed by the Massachusetts Association of Day Care Administrators, 1 person appointed by the Massachusetts Head Start Association, 1 person appointed by the Massachusetts Child Care Resource and Referral Agencies Network, 1 person appointed by the Massachusetts Association of Early Childhood Teacher Educators, 1 person appointed by the Massachusetts Association for the Education

of Young Children, 1 person appointed by the Massachusetts Independent Child Care Organization, 1 person appointed by Strategies for Children, 1 person appointed by Mass Association of School Committees, and 2 additional members appointed by the advisory committee co-chairs, 1 of whom shall be a representative of a family child care system and 1 of whom shall represent non-public schools. All members shall have expertise and demonstrated interest in early education and care services and a commitment to maximizing family choice by preserving a mixed system of high-quality public and private programs.

In carrying out its study, the advisory committee shall review relevant documents, including the 2001 report of the governor's commission on school readiness and the 2004 report of the Massachusetts early education and care council. The advisory committee shall identify elements of a workforce development system designed to support the education, training and compensation of the early education and care workforce. The advisory committee shall seek to determine elements of a multi-purpose school readiness assessment system for preschool children, as well as an independent evaluation mechanism to monitor program quality. In carrying out its study, the advisory committee co-chairs may appoint subcommittees to investigate and report on specific topics related to the subject, including but not limited to workforce development, coordination and integration of service delivery in the new department, quality enhancement for providers, accessibility and availability of services, and wrap around human services for students in early education and care settings, and may appoint to these subcommittees additional individuals not otherwise appointed to the committee, including representatives of the groups listed below.

The chairs of the advisory committee may expend funds from item 9700-0010 to hire a coordinator for the work of subcommittees, consultants to research best practices in schools of the commonwealth and other states and nations, and such other services as the chairs find necessary to the conduct of this study.

In carrying out its study, the advisory committee shall hold hearings in different regions of the commonwealth, and shall solicit testimony from interested stakeholders, including but not limited to the following: the commissioner of education, the chancellor of higher education, the commissioner of public health, the commissioner of the office of child care services, the commissioner of the department of social services, the commissioner of the department of mental health, the commissioner of the department of transitional assistance, the commissioner of the department of mental retardation, the Children's Trust Fund, the U.S. Department of Health and Human Services Administration for Children and Families, the Early Intervention Consortium, the Massachusetts Chapter of the American Academy of Pediatrics, the Federation for Children with Special Needs, the YMCA's of Massachusetts, the Massachusetts Association of School Committees, the Massachusetts Association of School Superintendents, the Massachusetts Teachers Association, the Massachusetts Federation of Teachers, the Parents Alliance for Catholic Education, the Massachusetts Community Colleges Executive Office, the Massachusetts Council of State College Presidents, and the Massachusetts Association for Community Action, the Massachusetts Organization of Educational Collaboratives, the Massachusetts Association

of Elementary School Principals, and the Massachusetts Afterschool Partnership.

The advisory committee shall submit a report containing its recommendations by filing the same with the council on early education and care created pursuant to section 608 of chapter 140 of the acts of 2003, the clerks of the senate and house of representatives, the house and senate committees on ways and means, and the joint committee on education, arts, and humanities not later than December 15, 2004.

(b) The council on early education and care created pursuant to section 608 of chapter 26 of the acts of 2003 shall develop a comprehensive plan to consolidate and transfer the management and administration of programs, services, and funding for all existing early education and care programs and services from the department of education and the office of child care services and the department of public health, to the department of early education and care, established pursuant to chapter 15D of the General Laws.

The council shall identify statutory and regulatory duplication of early education and care program administration and services under chapter 28A, and section 54 of chapter 15 of the General Laws, and shall recommend consolidation of early education and care line items. In recommending standards, the council shall take into consideration the program requirements under section 54 of said chapter 15. The plan shall set forth procedures regarding certification and take into consideration the teacher qualification requirements within the department of education's program standards. The plan shall recommend procedures for establishing licensure and accreditation policies, eligibility criteria, sliding fee scales, reimbursement rates, services, regulations, monitoring and policies among publicly funded early education and care programs. The plan shall identify how the state can best prioritize the needs of low-income families. The plan shall identify the proper role of Mass Family Networks, child care resource and referral agencies and other regional coordination and informational entities to assure the continued existence of comprehensive parent outreach, education and support services under the new board of early education and care. The plan shall identify the appropriate role of local councils in gathering data on local need, identifying providers in need of quality assistance, and serving as a local access point for families in need of services; provided, that said plan shall balance the need for local access with the need for clear central financial authority, transparent accounting and reporting standards, and fiduciary responsibility vested in the board established in chapter 15D of the General Laws.

The council shall submit a report containing its recommendations by filing the same with the joint committee on education, arts, and humanities, the advisory committee on early education and care, the clerks of the senate and house of representatives, and the senate and house committees on ways and means, not later than December 15, 2004.

(c) The joint committee on education, arts, and humanities shall review the recommendations of the advisory committee on early education and care submitted pursuant to subsection (a) of this section and the recommendations of the council on early education and care submitted pursuant to subsection (b) of this section. The committee shall make recommendations no later than February 1, 2005 to the General Court, along with any legislative

or budgetary recommendations necessary to create a consolidated universal, voluntary high quality early care and education system.

**SECTION 345.** Notwithstanding any general or special law to the contrary, of the 6 initial board members appointed by the governor to the board of early education and care established in chapter 15D of the General Laws, 1 shall be appointed for a 1 year term, 1 shall be appointed for a 2 year term, 2 shall be appointed for a 3 year term, 1 shall be appointed for a 4 year term, and 1 shall be appointed for a 5 year term.

The board of early education and care shall appoint the commissioner of early education and care no later than April 1, 2005.

The board of early education and care, established pursuant to chapter 15D of the General Laws, shall issue the first workforce development system improvement plan, as required by section 5 of chapter 15D, on or before December 31, 2005.

**SECTION 346.** Notwithstanding any general or special law to the contrary, no state college, the Massachusetts College of Liberal Arts, Massachusetts College of Art, Massachusetts Maritime Academy, or any community college shall make any expenditure for the issuance or renewal of student or employee identification cards which display the student or employee's social security number.

**SECTION 347.** Notwithstanding any general or special law to the contrary, the University of Massachusetts may insure the Chandler Laboratory, located at 391 to 393 Sabin street in the town of Belchertown, and recorded in the Hampshire county registry of deeds Book No. 1284, Page 51, and its contents in such amount as the university deems sufficient.

**SECTION 348.** Notwithstanding any general or special law, regulation, or rule to the contrary, during fiscal year 2005, the division of unemployment assistance shall maintain an office in the city of Taunton within a one-half mile radius of the Bristol superior court building for the purposes of holding hearings.

**SECTION 349.** Notwithstanding any law to the contrary, the department of mental health and the division of capital asset management and maintenance are hereby authorized to enter into an agreement with the town of Northborough regarding the sale, lease or conveyance of certain parcels of land located in said town, adjacent to the Westborough State Hospital for the purpose of passive recreational use by said town of Northborough.

**SECTION 350.** Notwithstanding any general or special law to the contrary, for fiscal years 2007 and thereafter, the total amount allocated for distribution to cities and towns pursuant to section 35 of chapter 10 of the General Laws shall be the sum of the amount distributed in fiscal year 2006 and: (i) in fiscal year 2007, 20 per cent of the difference between the fiscal year 2006 distribution and the amount that would otherwise be payable; (ii) in fiscal year 2008, 40 per cent of the difference between the fiscal year 2006 distribution and the amount that would otherwise be payable; (iii) in fiscal year 2009, 60 per cent of the difference between the 2006 distribution and the amount that would otherwise be payable; and (iv) in fiscal year 2010, 80 per cent of the difference between the fiscal year 2006 distribution and the amount that would otherwise be payable. For fiscal year 2011 and thereafter

the distribution of lottery proceeds shall be determined pursuant to section 35 of chapter 10 of the General Laws.

**SECTION 351.** Notwithstanding any general or special law to the contrary, the highway department is directed to create a public outreach effort regarding the effects of spraying herbicides and its environmental impact on drinking water sources and wetlands. Said department shall report to the clerk of the house of representatives who shall forward the same to the joint committee on transportation and the house and senate committees on ways and means on the implementation and results of said program on or before January 1, 2005.

**SECTION 352.** Notwithstanding any general or special law to the contrary, the division of capital asset management and maintenance shall reestablish the North American Indian Center of Boston, Inc.

**SECTION 353.** Notwithstanding any general or special law or regulation to the contrary, the Massachusetts Highway Department shall include the proposed intersection improvements of the Route 1A/Main Street-Winter Street-Jean Road intersection in Walpole on the Transportation Improvement Program project list covering fiscal years 2003-2007 and shall commence said improvements during fiscal year 2005.

**SECTION 354.** Notwithstanding any general or special law to the contrary, there shall be a pilot program in the Cambridge division of the Middlesex county district court to improve indigency verification of defendants claiming a right to publicly funded counsel. The program's objective shall be to employ appropriate information technology to access, instantaneously, or as nearly instantaneously as possible, all information potentially relevant in verifying defendants' indigency that is available to the chief probation officer under section 195 of this act. From September 1, 2004 until April 30, 2005, the committee for public counsel services shall enter into a service agreement with a consulting firm to investigate and examine the assets of defendants seeking publicly funded counsel based upon indigency. The consulting firm shall be selected through a competitive bidding process. The competitive bidding process shall require that all bidders be qualified and experienced in the use of information technology to achieve rapid and accurate retrieval of data comparable to the data needed for this program from systems comparable in size and scope to the systems being used as information resources in this program. The chief probation officer of the Cambridge division of the Middlesex county district court, in collaboration with the committee for public counsel services, shall oversee the operation of the pilot program. Through the use of appropriate information technology in, or immediately adjacent to, the courtroom, the program shall attempt to provide the chief probation officer and presiding judge with immediate access to the relevant records of the departments of revenue, transitional assistance and medical assistance and the registry of motor vehicles to determine a defendant's eligibility for publicly funded counsel. The program shall seek to provide such information to the presiding judge during the same session of the court in which the defendant claims entitlement to such services. Consistent with applicable laws and to the extent feasible, the consultant shall, through the use of information technology, also seek to

obtain access, as nearly instantaneously as possible, to the defendant's bank and financial records, property records and social security records, in order to determine the defendant's eligibility for publicly funded counsel.

The committee for public counsel services and the consultant shall submit a report to the clerk of the house of representatives who shall forward the same to the joint committee on the judiciary and the house and senate committees on ways and means on or before May 31, 2005 detailing any cost savings to the commonwealth that resulted from the pilot program. In particular, the report shall compare the percentage of defendants granted public counsel in the Cambridge division of the Middlesex district court during the pilot program with the percentage of defendants granted public counsel in the same court during the same period in 2003. Further, the report shall compare the percentage of defendants in the Cambridge division of the Middlesex county district court claiming a right to public counsel who were found eligible for such services during the pilot program with the percentage of defendants in the Lowell division of the Middlesex county district court claiming a right to public counsel who were found eligible for such services during the term of the pilot program. The report shall also include recommendations for any legislation that is deemed necessary to improve the speed and accuracy of indigency verification in the courts.

**SECTION 355.** There shall be a special commission to study the impact and effects on youth of the abuse of OxyContin and other prescription and illicit drugs including, but not limited to, Duragesic, Klonopin, Methadone, Morphine, Vicodin, as well as their generic equivalents, and cocaine, heroin, GHB, and MDMA. The commission shall consist of 3 members appointed by the speaker of the house, including the house chair of the joint committee on health care, 3 members appointed by the senate president, including the senate chair of the joint committee on health care, the commissioner of mental health, the commissioner of public health drug control program and 3 persons to be appointed by the governor, all of whom shall be members of the medical and substance abuse treatment community with specialty experience in drug regulation, prescription, treatment and abuse. The commission shall study the prescription, dispensing, treatment and education of those drugs and shall submit a report, including legislative recommendations, if any, to the clerk of the house of representatives who shall forward the same to the joint committee on health care and the house and senate committee on ways and means on or before June 15, 2005.

**SECTION 356.** There shall be a special commission to conduct an investigation and study of ways in which to improve the regional uniform protocol for sex offender management. The commission shall consists of 2 members appointed by the secretary of the executive office of public safety; 1 member appointed by the Barnstable county sheriff; 1 member appointed by the Cape and Islands district attorney's office; and 2 members appointed by the Cape Cod Police Chiefs Association. The commission's duties shall include, but not be limited to: (1) examination of the long and short-term affects of requiring sex offenders to register 90 days before their release from custody and declare the municipality in which they plan to reside and of requiring transfer to the house of correction in the county in which they plan to reside 30 days prior to their release; (2) investigation to

determine whether proposed legislative changes to expand the role of regional hearing officers, the use of local databases, and the use of local houses of correction for prisoner transfer and pre-release registration and classification would increase public safety; (3) evaluation of the pilot program established in section 249, including a recommendation on whether the protocol could be successfully implemented statewide; and (4) evaluation of potential changes in the sex offender registry statute and the civil commitment statute to achieve regional efficiencies in sex offender management throughout the commonwealth. The commission shall report the results of its investigation and its recommendations and shall submit drafts of any proposed legislation necessary to implement its recommendations by filing the same with the clerks of the senate and house of representatives on or before June 30, 2005.

**SECTION 357.** (a) There shall be a special commission to study the energy consumption of the government of the commonwealth. The commission shall specifically review the annual level and cost of energy consumption by executive offices, departments, agencies and divisions of the commonwealth's government over the past 3 fiscal years and shall develop a plan to conserve energy by reducing the government's annual energy consumption rates by at least 10 per cent compared to the average consumption rates over the past 3 fiscal years and by increasing the use of energy efficiency methods. The commission shall investigate and devise a plan to include renewable energy sources in the government of the commonwealth's energy portfolio. The commission shall also study the feasibility of utilizing innovative contracting and capital improvement planning to increase energy efficiency and reduce energy expenses in commonwealth facilities. The commission shall hold at least 4 statewide public hearings as part of its review. The commission shall report its findings and any proposed legislation to the clerks of the senate and the house of representatives not later than March 1, 2005. A copy of such report shall also be submitted, by said date, with the secretary of administration and finance, who shall take steps necessary to implement the recommendations of the commission.

(b) The special commission shall consist of 16 members. 8 members shall be appointed by the governor, including the chair of the department of telecommunications and energy, or his designee; the commissioner of energy resources, or his designee; the commissioner of the division of capital asset management and maintenance, or his designee; the secretary of administration and finance, or his designee; the secretary of transportation, or his designee; the president of the University of Massachusetts or his designee; the superintendent of state office buildings or his designee; and a representative from the Massachusetts Technology Park Collaborative. 4 members shall be appointed by the senate president, including the senate chair of the joint committee on energy and the senate minority leader or his designee; a representative from the International Brotherhood of Electrical Workers; and a representative from an organization that addresses energy conservation issues. 4 members shall be appointed by the speaker of the house of representatives, including the house chair of the joint committee on energy and the house minority leader or his designee; a representative from the National Association of Government Employees; and

a representative from an organization that addresses energy conservation issues.

**SECTION 358.** A special commission is hereby established for the purpose of making an investigation and study relative to workforce issues in those agencies serving people with mental retardation in the commonwealth. The issues shall include, but not be limited to, recruitment, retention and all other barriers that might impact the quality of employment for individuals with mental retardation. The commission shall consist of 2 members of the senate appointed by the president of the senate, 2 members of the house of representatives appointed by the speaker of the house of representatives, the secretary of the executive office of health and human services or his designee, the commissioner of the department of mental retardation or his designee, and 3 persons appointed by the governor, 1 of whom shall be a member of the Association of Developmental Disabilities Providers, 1 of whom shall be a member of Arc Massachusetts and the chairman of the governor's commission on mental retardation or his designee. The commission shall also have the authority to utilize existing data collected by vendor agencies, state and federal government agencies relative to workforce issues, and to collect additional data from relevant agencies and providers and study groups. The commission shall file a report with the results of its investigation and recommendations, together with drafts of legislation necessary to carry its recommendations into effect, by filing the same with the clerks of the senate and the house of representatives on or before March 15, 2005.

**SECTION 359.** The division of urban parks and recreation and the Massachusetts Bay Transportation Authority shall, file on or before December 31, 2004, a report to the clerks of the senate and house of representatives, the house and senate committees on ways and means and the joint committees on transportation, natural resources and agriculture and public safety providing a formal process for reviewing the use of the roads, driveways, parkways, boulevards and bridges under the jurisdiction of the division by the buses under the care and control of the Massachusetts Bay Transportation Authority.

**SECTION 360.** The undersecretary of public safety for forensic sciences shall prepare a report and recommendations, including draft legislation if so required, to the clerk of the house of representatives who shall forward the same to the house and senate committees on ways and means and the house and senate joint committee on criminal justice by January 1, 2005 on the further coordination and consolidation of the Commonwealth's criminal forensic services, including but not limited to computer forensics, controlled substance testing, toxicology services and an automated evidence tracking system accessible to end users. The undersecretary, following consultation with the division of capital asset management, shall also provide a recommendation to said committees for the design, placement and funding for a new state police crime laboratory. Upon written request by the undersecretary, all executive agencies, county sheriffs, municipalities, public universities and any other entity receiving state funding to perform forensic services on behalf of the Commonwealth, shall provide all documentation and information necessary to determine the type, scope, volume and cost of such forensic services. The report shall identify the costs of these services in fiscal year 2004.

**SECTION 361.** There shall be a special commission to evaluate the current status, adequacy and availability of long-term care residential services, facilities and programs for cognitively intact adults between the ages of 19 and 59 years of age with progressive and severe, chronic and physically disabling neurologic conditions. The commission shall study the long-term care needs of adults with multiple sclerosis and other similar progressive neurological conditions that manifest in physical impairments, including Amyotrophic Lateral Sclerosis, also called Lou Gehrig's disease, spinal cord injuries, muscular dystrophy, arthritis and Parkinson's disease to determine what specialized services, staff training and expertise are needed to serve their psychosocial and medical needs. The commission shall also evaluate what capacity in existing facilities must be preserved and adjusted to meet the demand for 24-hour custodial care and treatment of this population of cognitively intact, physically disabled young adults.

The commission shall collect and review data from the Massachusetts office on disability, the department of public health office on health and disability, the division of medical assistance and any other state or quasi-state agency or department with relevant information, to assist in the evaluation of waiting lists, number of severe or progressive neurologically disabled adults in each facility, the population frequency of disability by type and location, the profile of disabled adults in each facility offering specialized services for such cognitively intact, physically disabled adults with progressive or severe neurologic conditions. The commission shall also examine nonconfidential data from private local agencies and nonprofit organizations serving that population to determine the needs, whether met or unmet, and statistically anticipated, of such cognitively intact, physically disabled adults between the ages of 19 and 59, with severe and progressive neurologic conditions and diseases.

The special commission shall assess the fiscal impact, if any, of meeting the residential, psychosocial and physical dependency needs of this target population of cognitively intact adults with progressive and severe neurologic disabilities including, but not limited to a review of: the current status and accounting of available beds or units within existing facilities, existence of public or private facilities and homes serving this population, whether and how hospital units should be restructured or retrofitted to accommodate this targeted population, the appropriateness of the services offered in those units state and federal regulations governing long-term care facilities, including respite beds for the target population and evaluation of options for affordability.

The special commission shall consist of 24 members as follows: 3 members of the house of representatives, 1 of whom shall be the house chair of the joint committee on health care or his designee, 1 of who shall be the chair of the house committee on ways and means or his designee and 1 of whom shall be appointed by the house minority leader; 3 members of the senate, 1 of whom shall be the senate chair of the senate committee on health care or his designee, 1 of whom shall be the chair of the senate committee on ways and means or his designee and 1 of whom shall be appointed by the senate minority leader, the secretary of administration and finance or his designee; the secretary of health and human services or his

designee; 2 persons to be appointed by the governor who shall be between the ages of 19 and 59 with progressive or severe neurologic disabilities; the director of the Massachusetts office on disability or his designee; the commissioner of public health or a designee from the office on health and disability; the commissioner of medical assistance or his designee and the commissioner of health care finance and policy or his designee. The legislative or administrative staff for this commission shall be provided from existing resources or staff from the above offices. Other members of the commission shall include: 1 member of the Olmstead Advisory Group, the director of the Disability Law Center or his designee, the president or chief executive officer or his designee, of disease agencies and organizations serving individuals with multiple sclerosis, Amyotrophic Lateral Sclerosis, spinal cord injuries, muscular dystrophy, arthritis and Parkinson's disease and 1 administrator and 1 representative from the nursing staff from the Boston Home.

The commission shall be co-chaired by 1 member of the house and 1 member of the senate to be appointed respectively by the speaker of the house and president of the senate. The commission shall hold public hearings to assist in the collection and evaluation of data and testimony from family members, caregivers, facilities and other state offices, as well as other sources of information. The commission shall conclude its evaluation on or before September 30, 2004 by filing a final report with the clerks of the house and senate who shall forward the same to the house and senate committees on ways and means and the joint committee on health care.

The report shall include recommendations for securing services facility based custodial care for cognitively intact, physically disabled adults between the ages of 19 and 59, with progressive or severe neurologic disabilities, the cost of maintaining or establishing those facilities and any legislation necessary to implement or allow for the maintenance, retrofitting, renovation or construction of facilities for the targeted population.

**SECTION 362.** There shall be a special commission to study and report on the distribution of additional assistance. The commission shall consist of 3 representatives of the senate committee on ways and means, appointed by the president, and 3 representatives of the house committee on ways and means, appointed by the speaker. The scope of the commission's inquiry shall include, but shall not be limited to: the formula used to distribute additional assistance, an evaluation of the equity of the distribution of additional assistance and recommendations on modifications to the formula. This inquiry shall include at least 3 public hearings, which shall be held in at least 3 different counties of the commonwealth. The commission shall submit its report, along with drafts of any legislation, to the clerk of the house of representatives who shall forward the same to the house and senate committees on ways and means no later than February 15, 2005.

**SECTION 363.** There shall be a special commission to investigate and study middle education in the commonwealth, including but not limited to the following: a study of progress on implementation of the recommendations included in the 1993 Department of Education "Magic in the Middle" report; a review of the pertinent research and effective best

practice; and recommendations to improve standards based middle level teaching and learning, including review and analysis, and recommendations of middle level education as related to curriculum frameworks, teacher licensure, high standards and achievement articulation between elementary and high school levels, and department of education middle level support services.

The commission shall consist of the house and senate chairs of the joint committee on education, arts and humanities, who shall serve as co-chairs of the commission, 3 members of the senate appointed by the senate president, 5 members of the house of representatives appointed by the speaker, the commissioner of education or his designee, and 10 persons to be appointed by the governor. The governor shall choose from recommendations made by the appropriate organizations representing members of each of the following categories: not less than 1 superintendent, not less than 1 middle school principal recommended by the Massachusetts Secondary School Administrators Association, not less than 1 member of a school committee, not less than 1 member of the New England League of Middle Schools, not less than 1 parent of a middle school child and not less than 3 middle school teachers, 2 to be recommended by the Massachusetts Teacher Association and 1 by the Massachusetts Federation of Teachers.

The commission may accept and expend any appropriations, grants of money, professional, consultant, clerical and other services and supplies for the commonwealth in the course of its investigation and study.

The commission shall submit a report and its recommendations, if any, together with any drafts of legislation necessary to carry such recommendations into effect, by filing the same with the clerks of the senate and house of representatives who shall forward the same to the joint committee on education, arts and humanities, on or before November 24, 2004.

**SECTION 364.** (a) There shall be a special commission to investigate and study the feasibility of constructing a new inpatient facility in central Massachusetts for clients of the department of mental health and other persons with mental illness who require hospitalization or continuing care in a hospital setting. The study shall include, but not be limited to design features of any such facility, costs of construction, financing strategies, timeline for development and construction, administration of any such facility, and the siting of any such facility. The commission shall consist of fifteen members as follows: five members of the house, one member appointed by minority leader, four appointed by the speaker of the house, three members of the senate, one appointed by the minority leader, two appointed by the president of the senate; the secretary of administration and finance or his designee; the commissioner of the department of mental health, or her designee; the commissioner of the department of capital asset management and maintenance, or his designee; a representative from American Federation of State County and Municipal employees; a representative from Mass Nurses Association and 2 representatives from the national alliance for the mentally ill of Massachusetts. The commission shall report to the general court the results of its study together with recommendations and drafts of legislation

by filing the same with the clerks of the Senate and the House of Representatives on or before April 1, 2005. (b) No action shall be taken to reduce the client populations of Worcester State Hospital or Westborough State Hospital for the sole purpose of closing either or both of said hospitals, and not steps shall be taken to close either institution through attrition, layoffs or other means on or before July 1, 2005.

**SECTION 365.** Notwithstanding the provision of any general or special law to the contrary, the division of medical assistance shall study the possible effects of placing any drug prescribed for the treatment of hemophilia or blood disorders on prior authorization. Said study shall include an analysis on the clinical outcomes that could result from such prior authorization as compared to the effectiveness of oversight to prevent overmedication or misuse of prescribed drugs. The results of said study and any accompanying recommendations shall be submitted to the clerk of the house of representatives who shall forward the same to the house and senate committees on ways and means no later than December 1, 2004.

**SECTION 366.** Notwithstanding any general or special law to the contrary, the supreme judicial court, in consultation with the chief justice for administration and management of the trial court, may exempt attorneys employed by the commonwealth and its political subdivisions from paying the annual registration fee assessed by or otherwise payable to the board of bar overseers.

**SECTION 367.** The department of housing and community development, in consultation with the department of education and the department of revenue, shall study the impact on educational systems in cities and towns as a result of adopting smart growth zoning districts described in chapter 40R of the General Laws. Said study shall include, but not be limited to, the following: the number of public school children residing in housing units of new construction in approved districts; any additional net costs incurred by impacted public school systems; the number of cities and towns that have adopted smart growth zoning districts; and a recommended formula for ascertaining any actual additional net public school costs to which cities and towns may become subject as a result of adopting the smart growth zoning districts described in chapter 40R. In developing the recommended formula, the agencies shall take into account new tax and other revenues to which cities and towns may become entitled as a result of adopting those districts. The department of housing and community development shall report on the methodology it recommends, including an analysis of alternative methodologies they evaluated. The department of housing and community development shall submit its report to the clerks of the house and senate who shall forward the same to the house and senate committees on ways and means, the joint committees on taxation, housing and urban development and education, arts and humanities no later than July 1, 2006.

(b) No one-time density bonus payments or smart growth zoning incentive payments shall be made under section 9 or under section 13 of chapter 40R of the General Laws on or before July 1, 2005.

**SECTION 368.** Notwithstanding any general or special law to the contrary, the executive office of public safety, in cooperation with the Massachusetts Chiefs of Police Association, shall submit a report to the house and senate committees on ways and means no later than October 1, 2004 that shall recommend a formula for the equitable distribution of community policing grants based upon, but not limited to, the following: accurate statistics for each municipality's population as of the 2000 census, historic levels of community policing grants, violent crime rates, seasonal population fluctuations, hate crimes statistics, non-violent crime rates, tourism and visitor statistics, terrorist attack risk assessment and law enforcement officer assault statistics. Said report shall also include detailed information regarding unexpended balances of said funds for each municipality and the reason for said unexpended balances. No competitive grant funds shall be distributed from item 8000-0010, in section 2 of this act, in fiscal year 2005 prior to the enactment of legislation establishing a new distribution formula for the allocation of said community policing grants. No municipality shall receive funding from said item until they have submitted uniform crime statistics to the Federal Bureau of Investigations. Earmarked funds in the community policing item shall be reduced 33.3 per cent beginning in fiscal year 2006 and in each subsequent fiscal year with the intention of eliminating earmarked funds from said item by fiscal year 2008.

**SECTION 369.** (a) There shall be a task force to study reflectorized safety number plates, within available appropriations. The task force shall study the feasibility of a state-wide license plate reissuance for passenger and commercial vehicles. The study shall include, but not be limited to: (1) the impact on the reduction of unregistered and uninsured motor vehicles; (2) the impact on state and local revenue; (3) an examination of state-of-the-art digital technology.

(b) The task force shall consist of the following members: (1) the registrar of motor vehicles, or designee, (2) the secretary of public safety, or designee, (3) a representative from the department of correction, (4) a representative from the Massachusetts Police Chiefs Association, (5) a representative from the Massachusetts Municipal Association, (6) a representative from the International Brotherhood of Police Officers, (7) the chairmen from the joint committee on public safety, (8) the chairmen from the house and senate committees on science and technology, and (9) a chairperson appointed by his excellency, the governor.

(c) All appointments to the task force shall be made no later than 30 days after the effective date of this section. Any vacancy shall be filled by the appointing authority.

(d) The task force shall submit a report on its findings and recommendations to the clerk of the house of representatives who shall forward the same to the joint committee on transportation on or before December 15, 2004.

**SECTION 370.** Notwithstanding the provisions of any general or special law to the contrary, there is hereby established a special commission on residential care facilities, also known as rest homes, in the commonwealth. Said commission shall study the role that residential care facilities play in the continuum of long-term care, identify the availability of residential care facilities relative to the need for such services, and the adequacy of public

reimbursement for residential care facilities. The commission shall also study the roles of state agencies relative to residential care and recommend policies and procedures to coordinate effective communication and oversight among the various agencies with responsibility for residential care. The commission shall make recommendations relative to the funding of and methodology used in determining rates paid to residential care facilities. Said commission shall consist of the following members: 4 members of the senate, 1 of whom shall be appointed by the minority leader; 4 members of the house, 1 of whom shall be appointed by the minority leader; the commissioner of the department of public health, or her designee; the commissioner of the division of health care finance and policy, or his designee; the commissioner of the department of transitional assistance, or his designee; the secretary of the executive office of elder affairs, or her designee; and two representatives from each of the following organizations: Massachusetts Aging Services Association and the Massachusetts Association of Residential Care Homes. The commission shall report its findings and recommendations to the clerk of the house of representatives who shall forward the same to the house and senate committees on ways and means on or before April 1, 2005.

**SECTION 371.** The department of environmental protection, solid waste management section shall study the closure of the BFI landfill located in the city of Fall River at the completion of Phase II, Cell D. Said study shall include, but not be limited to the following; (1) the possibility of no longer accepting any waste matter, ash, or any other material with the completion of Phase II, Cell D, (2) using only materials to complete the closing will be accepted at the facility, (3) the prohibition of any expansion into any other portion of the landfill site, including Phase III, (4) the direction and flow of the subsurface groundwater surrounding the Browning Ferris Landfill in Fall River, (5) the testing of the groundwater contaminants leaching from the landfill and mapping of the travel direction and distances traveled by the contaminated groundwater, (6) and any other matters involving the closure of said landfill and the possible contamination of groundwater in areas around said landfill. The department shall report its findings together with recommendations, if any, to the clerk of the house of representatives who shall forward the same to the joint committee on natural resources and agriculture and house and senate committees on ways and means on or before May 1, 2005.

**SECTION 372.** There shall be a commission to study the provision of counsel to indigent persons who are entitled to the assistance of assigned counsel either by constitutional provision, or by statute, or by rule of court. The commission shall be composed of 11 persons, including 1 member to be appointed by the speaker of the house of representatives, 1 by the president of the senate; 1 by the house chair and 1 by the senate chair of the committee on the judiciary; the chief justice of the supreme judicial court or her designee; the chief justice for administration and management of the trial court or his designee; the commissioner of probation or his designee; the chief counsel of the committee for public counsel services; the chairman of the committee for public counsel services; a staff attorney employed by, and a private attorney who accepts assignments from, the committee for public counsel services, to be appointed by said committee.

The commission shall examine all aspects of the provision of counsel in such cases, including but not limited to (i) the frequency of the assignment of counsel to indigent persons, (ii) the feasibility of changes, consistent with chapter 211D of the General Laws, to control or reduce the frequency of case assignments, (iii) the cost of providing counsel in such cases; (iv) the adequacy of existing procedures for determining and verifying the eligibility of persons who request the assignment of counsel; (v) the adequacy of existing procedures for the assessment and collection of counsel fees from persons who have been determined to be eligible for assigned counsel; (vi) the existing balance, and the adequacy of that balance, in each practice area and county between the provision of legal representation by salaried staff counsel and certified private counsel; (vii) the frequency with which neither salaried staff counsel nor certified private counsel are available to represent a defendant entitled to publicly funded representation; (viii) the impact of the current hourly rate paid to certified private counsel on the availability or non-availability of such counsel to defendants entitled to publicly funded representation; and (ix) the feasibility and potential benefits of providing representation to indigent persons predominantly through the assignment of salaried staff counsel rather than certified private counsel.

The commission shall report its findings and recommendations to the clerk of the house of representatives who shall forward the same to the speaker of the house of representatives, the president of the senate, and the chairpersons of the house and senate committees on ways and means on or before February 1, 2005.

**SECTION 373.** The department of education, in this section called the department, shall develop a statewide plan to establish and maintain an environment for students which is safe, positive, conducive to learning, and free of disruption and bullying. The plan shall include but not be limited to the following features: a framework for a model policy on the prevention of bullying as described below; a proposed hierarchy of responsibilities for teachers and administrators to ensure accountability for results; a method for assessing the students' environment at school and in after school environments, a model curriculum and continuing professional education on bullying, and a process for continued review of the progress made in eliminating bullying from the school environment.

The department shall develop a model policy on the prevention of bullying. The bullying prevention policy shall include but not be limited to:

- (i) A statement prohibiting bullying of any student;
- (ii) A definition of bullying;
- (iii) Proposed disciplinary policies for schools, including appropriate disciplinary or remedial action on students who commit bullying;
- (iv) A model procedure that directs students and staff how to report violations and file complaints;
- (v) A model procedure for investigating reports of violations and complaints;
- (vi) A description of how the board will ensure that teachers and other staff members receive training in preventing, recognizing and responding to bullying.

(c) Each school committee may develop local bullying prevention policies based on the model policy developed by the department pursuant to subsection (b).

(d) The department shall work with relevant stakeholders, including community organizations, to develop pilot programs on the prevention of bullying, and shall seek to replicate successful results in other schools and districts.

(e) The department shall issue its statewide plan and model policies no later than February 1, 2005, and shall file the same with the house and senate clerks, the house and senate chairs of the joint committee on education, arts and humanities, and the chairs of the house and senate ways and means committees, along with any legislation necessary to carry said policy into effect. Said legislation may include a proposed statutory definition of bullying, amendments to school handbook law, expulsion law, professional development provisions, or any other section of general laws which, in the opinion of the department are integrally related to the prevention and elimination of bullying.

**SECTION 374.** Notwithstanding any general or special law to the contrary, the board of fire prevention regulations, established in section 4 of chapter 22D in consultation with the Massachusetts fire training council, established in section 164 of chapter 6, the fire safety commission, established in section 200 of said chapter 6, the state board of building regulations and standards, established in section 94 of chapter 143, the state fire marshal and the Secretary of Public Safety or his designee, shall study the feasibility and likely efficacy of promulgating rules and regulations: (1) establishing a nightclub fire safety training program and training materials for employees of every building or structure, or a portion thereof, of public assembly with a capacity of 50 persons or more and designed or used for occupancy as a nightclub, dance hall, discotheque, bar or other similar purpose; (2) establishing and promoting education in the proper use and storage of all forms of fire extinguishers and other similar fire suppressant apparatus for the owners, lessees and mortgagees of all buildings certified under the state building code; (3) establishing, in conjunction with the executive office of economic affairs, methods for owners, lessees and mortgagees in possession or control of a building or structure, or a portion thereof, of public assembly with a capacity of 50 persons or more, designed or used for occupancy as a nightclub, dance hall, discotheque, bar or other similar purpose, to install automatic sprinklers at discounted rates including, but not limited to, no interest or low interest loans and insurance cost-containment measures; (4) establishing methods for the proper tracking and certification of pyrotechnic displays and for the use of fog, hazing or other fog-producing apparatus, in all places of public assembly; (5) improving luminescence of egress routes and the widening or upgrading of main exit doors in all places of public assembly; (6) establishing requirements that balanced design be employed in the future construction of large entertainment venues, such as theatres, convention centers and arenas; (7) prohibiting the use of non-flame retardant foam plastics and non-flame retardant acoustic materials in all places of public assembly; (8) establishing standards, based upon current technology and science, on the proper use of fire-resistant acoustic materials in all places of public assembly; and (9)

establishing an advisory council on fire safety building materials for the purpose of incorporating comprehensive flame-retardant material standards into the state building codes and to recommend to the state board of building regulations and standards flame-retardant material standards to be incorporated as emergency amendments into the state building code.

**SECTION 375.** The Public Employee Retirement Administration Commission in consultation with the state and state teacher's retirement boards shall analyze, study, and evaluate the costs and actuarial liabilities attributable to increasing the base to which cost of living adjustments are applied under section 102 of chapter 32 of the General Laws. The study shall include the cost and actuarial liability associated in increasing the base from 12,000 to 22,000 incrementally by the thousand. In order to effectuate the funding for the change in the base, the commission shall prepare supplemental pension funding schedules which shall be designed to reduce the actuarial unfunded liability, attributable to the increased COLA base, to 0 on or before June 30, 2028 and shall provide 2 alternative schedules providing the option of reducing the unfunded liabilities to 0 by June 30, 2034 and June 30, 2038, respectively; provided, that in preparing such schedules, the commission shall consider the actuarial value and the market value of the system's assets and liabilities, the long term investment rate of return on the systems assets and the system's unfunded actuarial liability. The commission shall file the study together with its recommendations and proposed funding schedule to the house and senate committees on ways and means, along with the joint committee on public service on or December 31, 2005. The commission shall provide assistance in developing funding schedules for the purpose of increasing the COLA base to city, town, county, regional, district and authority retirement systems at the request of the appropriate retirement board.

**SECTION 376.** Notwithstanding any general or special law to the contrary, an amount equal to \$270,000,000 from the Federal Medicaid Assistance Percentage Escrow Fund, established by section 1 of chapter 118 of the Acts of 2003, shall be designated for expenditure in fiscal year 2005, and shall not contribute to the calculation of the fiscal year 2004 consolidated net surplus, as calculated by the state comptroller as of June 30, 2004, pursuant to section 5C of chapter 29 of the General Laws. Not later than July 15, 2004, the state comptroller is hereby authorized and directed to transfer said amount from said fund to the General Fund.

**SECTION 377.** Notwithstanding any general or special law to the contrary, the Massachusetts Housing Finance Agency, established pursuant to section 2 of chapter 23B of the General Laws, shall transfer no later than June 30, 2005 \$4,000,000 from funds available pursuant to section 197E of chapter 111 of the General Laws to the General Fund.

**SECTION 378.** Notwithstanding any general or special law to the contrary, in accordance with subsection (e) of section 35J of chapter 10 of the acts of 2002, \$770,000 shall be transferred from the Massachusetts Tourism Fund to the Regional Tourism Facility Fund in fiscal year 2005.

**SECTION 379.** The amounts transferred pursuant to section 5B of chapter 29 of the General Laws, as most recently amended by section 163 of chapter 26 of the Acts of 2003,

shall be made available for the Commonwealth's Pension Liability Fund established under section 22 of chapter 32 of the General Laws. The amounts transferred pursuant to said section 5B of said chapter 29 shall meet the commonwealth's obligations under section 22C of said chapter 32, including retirement benefits payable by the state employees' and the state teachers' retirement systems, for the costs associated with a 3 per cent cost-of-living adjustment pursuant to section 102 of said chapter 32, the reimbursement of local retirement systems for previously authorized cost-of-living adjustments pursuant to section 102 of said chapter 32, and for the costs of increased survivor benefits pursuant to chapter 389 of the Acts of 1984. Subject to the rules and regulations promulgated by the treasurer, the state retirement board and each city, town, county and district shall verify the cost thereof and the treasurer may make such payments upon a transfer of funds to reimburse certain cities and towns for pensions to retired teachers and including any other obligations which the commonwealth has assumed on behalf of any retirement system other than the state employees' or state teachers' retirement systems and including the commonwealth's share of the amounts to be transferred pursuant to section 22B of said chapter 32 and the amounts to be transferred pursuant to subsection (a) of the last paragraph of section 21 of chapter 138 of the General Laws. All payments for the purposes described in this item shall be made only pursuant to distribution of monies from the fund, and any such distribution and the payments for which distributions are required shall be detailed in a written report filed quarterly by the commissioner of administration with the house and senate committees on ways and means and the joint committee on public service in advance of such distribution. Such distributions shall not be made in advance of the date on which a payment is actually to be made. The state retirement board may expend an amount for the purposes of the higher education coordinating council's optional retirement program pursuant to section 40 of chapter 15A of the General Laws. To the extent that the amount transferred pursuant to section 5B of said chapter 29 exceeds the amount necessary to adequately fund the annual pension obligations, the excess amount shall be credited to the Pension Reserves Investment Trust Fund of the commonwealth for the purpose of reducing the unfunded pension liability of the commonwealth.

**SECTION 380.** Notwithstanding any general or special law to the contrary, on or before June 30, 2005, the comptroller shall transfer \$340,000,000 from the Commonwealth Stabilization Fund, established pursuant to section 2H of chapter 29 of the General Laws, to the General Fund. If tax revenues for the commonwealth exceed benchmarks set by the department of revenue based on the consensus revenue estimate, established pursuant to section 5B of chapter 29 of the General Laws, by the third quarter of fiscal year 2005, consideration shall be given to reduce the amount of the Stabilization Fund transfer stated herein. Said reduction shall be determined by the house and senate committees on ways and means.

**SECTION 381.** Notwithstanding any general or special law to the contrary, the comptroller, in consultation with the division of health care finance and policy and the secretary of health and human services, shall transfer \$75,000,000 in unexpended amounts

from account number 4000-0896 in MMARS, so called, to the Uncompensated Care Trust Fund established pursuant to section 18 of chapter 118G of the General Laws, on or before October 1, 2004. The division of health care finance and policy, shall expend the aforementioned amount, without further appropriation, to reimburse acute hospitals for uncompensated care rendered during hospital fiscal year 2005.

**SECTION 382.** Notwithstanding any general or special law to the contrary, the comptroller shall transfer, on October 1, 2004, \$75,000,000 from the General Fund to the Uncompensated Care Trust Fund for the purpose of funding one-time payments to acute care hospitals and community health centers.

**SECTION 383.** Notwithstanding any general or special law to the contrary, pension benefits funded through item 0612-2000 in fiscal year 2004 shall be funded from the Pension Reserves Investment Trust fund, as established pursuant to section I of chapter 32 of the General Laws. The state treasurer shall report to the house and senate committees on ways and means not later than November 15, 2004 on the benefits funded pursuant to this section. This report shall list the amount of benefit received by each individual through this funding in fiscal year 2004 and the amount of benefit projected to be received by each individual through this funding in fiscal year 2005.

**SECTION 384.** Notwithstanding section 108L of chapter 41 of the General Laws or any general or special law to the contrary, any city or town which accepts the provisions of section 108L of chapter 41 of the General Laws after August 1, 2002 and provides annual career incentive bonus payments for police officers, shall not be reimbursed by the commonwealth for the commonwealth's share of the those payments before fiscal year 2015.

**SECTION 385.** Notwithstanding any general or special law to the contrary, amounts expended from the Natural Heritage and Endangered Species Fund, established by section 35D of chapter 10 of the General Laws, shall be exempt from indirect cost charges pursuant to chapter 29 of the General Laws.

**SECTION 386.** Notwithstanding any general or special law to the contrary the secretary of transportation and construction and the Massachusetts highway department shall conduct a study on the effects of a permanent commercial truck ban on Elm street, Hayward street and Howard street, in the town of Braintree; provided further, that said study shall be submitted to the joint committee on transportation and the house and senate committees on ways and means by January 1, 2005.

**SECTION 387.** Notwithstanding the provisions of any general or special law, rule or regulation to the contrary, a certain parcel of land located on the westerly side of Border Street in East Boston in the City of Boston is hereby eliminated as a Designated Port Area under 301 C.M.R. 25 and 310 C.M.R. 9 and any other applicable provisions of the code of Massachusetts regulations.

Said parcel located at 80 Border Street, East Boston, assessors parcel number 01-05412002, and shown on a plan entitled Plan of Land 80 Border Street Boston (East), Mass. Dated 3/31/2004. Said parcel contains approximately .514 acres of land.

**SECTION 388.** The bridge located on Route 3 North and extending over Route 62 in the town of Bedford, northbound bridge number B-04-011 (AYA) and southbound bridge number A-04-011 (AY9), shall be designated and known as the Michael P. Lenihan Bridge. The department of highways shall erect and maintain a suitable marker on said bridge bearing said designation in compliance with the standards of said department.

**NO SECTION 389.**

**SECTION 390.** There shall be an information technology advisory board. The advisory board shall consist of 7 members including: the executive department's chief information officer; the legislative departments chief information officer; the judicial department's chief information officer; the chair of the senate committee on science and technology; the chair of the house committee on science and technology; and 2 members appointed by the governor for terms of 1 year each, 1 of whom shall have expert knowledge in the area of information technology, 1 of whom shall represent the interests of business and the other the interests of the consumers.

The board shall annually, by July first of every year, draft, recommend and present for signature to the governor, the speaker of the house of representatives, the president of the senate, the chief justice of the supreme judicial court and the constitutional officers, a memorandum of understanding among and acceptable to the executive department, legislature, judiciary and constitutional offices that shall include information technology standards and a strategic plan for the signatories' acquisition and use of information technology. In addition, the advisory board shall advise the executive department's chief information officer on information technology issues, including the development of an enterprise vision, strategy and direction for the use of information technology in the executive department, the development of policy, strategic planning, and project selection criteria, and information technology architecture, infrastructure, information technology investments and security. The advisory shall also file annually, on July first of every year, a report with the governor, the speaker of the house, the president of the senate, the constitutional officers, and the chief justice of the supreme court, including its analysis and recommendations during the previous year.

The information technology advisory board's membership shall meet regularly on a schedule to be determined by its members, but in any case no fewer than 4 times a calendar year. The members of the board shall serve without compensation but shall be reimbursed for their expenses actually and necessarily incurred in the performance of their duties. The information technology division's staff shall provide such assistance as the board may deem necessary.

**SECTION 391.** The secretary of administration, in collaboration with the state auditor and the personnel administrator, shall conduct a comprehensive review and analysis of executive and managerial compensation and shall report the results of the study to the house and senate committees on senate ways and means and the joint committee on public service not later than October 1, 2004. The report shall include, but not be limited to, a review of all executive branch employees, employees of the governor's office and the executive office of administration and finance whose annual salary is \$100,000 or more. The

study shall also analyze the management salary schedule established in section 46 of chapter 30. The report shall include, but not be limited to, an analysis of the operation of the salary schedule, including the number of managers in each job group at each increment step, how salaries for managers are initially set, how the performance of managers is reviewed and how increases or increments are given. The administrator shall make recommendations regarding whether and how the schedule should be adjusted, including whether job grades or steps should be increased or eliminated and on other methods of salary administration, including management performance evaluations.

**SECTION 392.** There shall be a special commission to consist of the governor or his designee, the president of the senate or his designee, the speaker of the house of representatives or his designee and the chairs of the boards of selectmen in the town of Canton and the town of Milton for the purpose of conducting a study of the feasibility and cost to the commonwealth in converting the state property known as Brookwood farm, which was donated to the commonwealth for use as a governor's residence, to use for that purpose. The special commission shall report to the general court the results of its investigation and study, together with recommendations and drafts of legislation necessary to carry out any recommendations, by filing the report with the clerk of the senate and the clerk of the house of representatives on or before February 15, 2005.

**SECTION 393.** (a) There shall be a pilot program operated by the clerk of the central division of the Boston municipal court for the purpose of recovering unpaid obligations to the court from bail posted by or on behalf of criminal defendants.

(b) For the purposes of this section, the following terms shall have the following meanings:

"Bail discharge docket", the docket created in subsection (d).

"Bail lien", the lien created by subsection (c); provided, however, that such lien shall be created and perfected automatically and immediately upon imposition of a financial obligation on the defendant.

"Bail lien discharge", the discharge prescribed in subsection (d).

"Clerk" or "clerk of the court", the clerk of the central division of the Boston municipal court department.

"Assistant clerk", an assistant clerk of the central division of the Boston municipal court department.

"Financial obligation", any order by the court to pay any monies.

(c) When the central division of the Boston municipal court imposes on a defendant a financial obligation, the clerk of the court shall immediately place a bail lien in an amount not to exceed \$200 on any bail posted by or on behalf of the defendant. The clerk shall not thereafter return any bail to the defendant or the person who posted the bail on behalf of the defendant until: (i) the financial obligation has been fully satisfied; or (ii) the matter has been terminated and the court has discharged the defendant. Except by order of the court, a matter shall not be considered terminated until all financial obligations imposed on the defendant

have been satisfied. Persons authorized to admit a defendant to bail shall inform the defendant or the person posting bail on behalf of the defendant in a writing, which the defendant or the person posting bail on behalf of the defendant shall read and sign, that, in the event the court imposes a financial obligation on the defendant, a bail lien shall be placed on any bail posted by the defendant or on behalf of the defendant.

(d) The clerk of the court may discharge a bail lien, in whole or in part, by issuing on a bail lien discharge form that he shall approve. The clerk shall not discharge a bail lien unless he is presented with an itemized list of the financial obligations previously imposed on the defendant, which the defendant has certified, and written receipts demonstrating to the satisfaction of the clerk that all the listed obligations have been fulfilled. If the clerk of the court approves the bail lien discharge, the original discharge shall be placed in the case file.

The clerk shall maintain a bail discharge docket. The clerk or an assistant clerk shall file in the docket a copy of every bail lien discharge the clerk approves. The bail discharge docket may be maintained in printed book form or by electronic means and may be made available for public inspection on the internet.

(e) The clerk shall, not later than February 1, 2005 and every 3 months thereafter, cause to be filed with the house and senate committees on ways and means and the joint committee on the judiciary a report on the effectiveness of the pilot program including but not limited to: (i) the name of each defendant from whom the court received payment to satisfy a bail lien; (ii) the amount of bail imposed on that defendant; (iii) the total payments received from the defendant to satisfy financial obligations to the court during the pendency of the bail lien; (iv) the names of defendants who failed to satisfy a bail lien and, therefore, forfeited their bail; (v) the amount of bail forfeited and (vi) the amount of the outstanding lien against each such forfeiting defendant.

(f) Neither a justice nor the clerk shall waive, vacate, remit or reduce the financial obligations of a defendant who is incarcerated solely because of the defendant's incarcerated status.

(g) The clerk of the court shall maintain a separate interest bearing account for the receipt of bail and other monies received by the court. Interest accruing on account of funds deposited in the account shall be remitted to the state treasurer and deposited not less than once per month in the General Fund. Bail that has been ordered forfeited shall, not later than 30 days after the order of forfeiture, be remitted to the treasurer and deposited in the General Fund.

**SECTION 394.** In order to enhance care for individuals, families, and communities in need of substance abuse prevention, treatment and supportive services, the secretary of health and human services shall develop a policy for substance abuse services and submit a report relative to the state of alcohol and other drug addiction, prevention and treatment services in the commonwealth. The report shall include, but not be limited to, identification of all alcohol and drug addiction, prevention and treatment services currently available across all state agencies and departments, including services for incarcerated individuals and individuals released from prisons and jails, the availability and accessibility of services, the

status of a continuum of care for seamless transition for recovery, the availability and coordination of services for people with mental health and addiction disorders, the availability of services for culturally competent and culturally specific populations, the reimbursement of substance abuse recovery and treatment services, so as to reflect the reasonable cost of delivering care to individuals in the most appropriate, least restrictive settings, and the viability of third party insurance payors that will ensure that services paid for by state and federal funds remain the payor of last resort for the uninsured. The secretary shall solicit input from the public, including from individuals and families in recovery, organizations representing individuals in recovery, prevention and treatment service providers, and provider organizations. The report shall also detail all substance abuse spending by all the various agencies of the commonwealth, including but not limited to, payroll, contracts, testing, supplies, treatment and services and shall include recommendations for maximizing federal reimbursements from the Substance Abuse Prevention and Treatment Block Grant and any other federal grants. The report shall include the results of its investigation and study, together with a list of its findings and a list of prioritized legislative and regulatory recommendations, if any, to effect coordinated statewide policy and administrative structure for substance abuse prevention and treatment services. The report shall be submitted to the joint committee on health care, the joint committee on human services, the joint committee on insurance and the house and senate committees on ways and means on or before February 1, 2005.

**SECTION 395.** Notwithstanding any general or special law to the contrary, the provisions of section 9B of chapter 118E of the General Laws shall not apply during fiscal year 2005; provided, further, the executive office of health and human services shall submit a report on the long-term solvency of the Children's and Seniors Health Care Assistance Fund; provided, that this report shall make recommendations on possible methods to ensure the long-term compliance of this fund with section 9B of chapter 118E of the General Laws; provided further, that the report shall include, but not be limited to, an analysis of the appropriateness of creating and dedicating new or existing revenue sources to the fund, implementing eligibility reductions, cost sharing increases, and other changes to the MassHealth program to maintain budget neutrality as provided in section 9B of chapter 118E of the General Laws. The secretary shall submit a report with recommendations to the house and senate committees on ways and means and the joint committee on health care on or before December 1, 2004.

**SECTION 396.** Notwithstanding any general or special law, rule or regulation to the contrary, the division of inspection and the secretary for administration and finance shall amend regulations to reflect the following changes in fees: (a) fees for annual elevator inspections shall be at least \$400 per inspection, and (b) fees for overtime elevator inspection, defined as inspections taking place after 5:00 p.m. or during weekend hours, shall be at least \$500 in total per inspection. The regulations shall also be amended to provide that the inspection fee for residential elevators and wheelchair lifts that are determined to be edically necessary shall be: (a) \$100 per inspection, and (b) \$125 in total for overtime inspections,

defined as inspections taking place after 5:00 p.m. or during weekend hours.

**SECTION 397.** Notwithstanding any general or special law to the contrary, any member of the teachers' retirement system or any teacher who is a member of the State-Boston retirement system who filed an election form to participate in the alternative superannuation retirement benefit program under clause (i) of subsection (4) of section 5 of chapter 32 of the General Laws prior to July 1, 2001 with an officer of the city, town or school district in which such teacher was employed may elect to participate in the alternative superannuation retirement benefit program by filing an application with the state teachers' retirement board or the State-Boston retirement board, no later than October 1, 2004, on such form as the state teachers' retirement board or the State-Boston retirement board shall prescribe, with a certificate of the officer of the city, town or school district confirming that the member had filed an election form under said clause (i) of said subsection (4) of section 5 of chapter 32, prior to July 1, 2001. The election to participate in the alternative superannuation retirement benefit program shall be irrevocable and shall be subject to clause (i) of said subsection (4) of section 5 of chapter 32.

**SECTION 398.** Notwithstanding any general or special law to the contrary any funds remaining with the city of Boston in account number 201-13196N-1997 of deeds excise tax revenue section 12 of chapter 64D of the General Laws, shall immediately be transferred to item 0540-2001 and the funds shall be expended on or before June 30, 2005.

**SECTION 399.** Notwithstanding any general or special law to the contrary, the secretary of administration and finance shall increase licensing fees for wholesalers, vending machine operators and retailers as defined in section 1 of chapter 64C of the General Laws to a level that will generate revenues to an amount not less than \$3,750,000.

**SECTION 400.** Notwithstanding any general or special law to the contrary, the Massachusetts Bay Transportation Authority shall not charge any additional fare between Lechmere, Science Park and North Station for shuttle bus service in connection with the green line construction project, which would amount to a total fare exceeding the fare that would otherwise be charged for green line subway service, and the Massachusetts Bay Transportation Authority shall make transfers available to ensure that passengers are not charged twice for such shuttle bus service connecting to green line subway service.

**SECTION 401.** The position of town treasurer and town collector in the town of Pembroke shall be combined and the combined position shall be appointed by the board of selectmen of the town for a term not to exceed 3 years and the person so appointed shall have all of the powers and duties by law vested in the office of the town treasurer and town collector. Any vacancy in such office shall be filled in like manner. The board of selectmen may remove any person so appointed for cause after a hearing.

Notwithstanding the foregoing, the incumbent holding the offices of town treasurer and town collector on the effective date of this act shall continue to hold such offices and to perform the duties thereof until the expiration of the terms for which she was elected, unless she sooner vacates such offices. After the term of the incumbent town treasurer and town

collector holding such offices on the effective date of this act have both expired, or both offices are sooner vacated, the board of selectmen shall appoint a treasurer/collector in the manner set forth above. Should the incumbent town treasurer remain in office, upon the expiration of her term in 2005, the board of selectmen will appoint her interim town treasurer until her term as collector expires in 2006. The board of selectmen may appoint a treasurer/collector as described above.

Notwithstanding chapter 32 of the General Laws, section 116 of chapter 46 of the acts of 2003 or any other general or special law to the contrary, the incumbent treasurer and collector on the effective date of this section shall be eligible for retirement under section 116 of chapter 46 of the acts of 2003, provided however, that said incumbent must file an application for retirement by a date to be determined by the board of selectmen, such date to be not later than September 6, 2004, and provided further that notwithstanding section 5 of chapter 32, requiring a retirement date within 4 months of filing of an application for superannuation retirement, the board of selectmen may determine a retirement date on or before September 6, 2004 and not later than her term ending on April 30, 2005.

**SECTION 402.** There is hereby established a Fernald Developmental Center land reuse committee. The committee shall include the mayor of the city of Waltham, who shall serve as chair of the committee, the ward councilor from the city of Waltham representing the ward in which the campus is located, who shall serve as vice-chair of the committee, the planning director of the city of Waltham, the commissioner of the Massachusetts department of mental retardation, a mentally retarded consumer who is a resident of Fernald, and who shall be appointed by the commissioner of mental retardation, the commissioner of the department of capital asset management and maintenance, 7 citizens of Waltham to be appointed by the mayor of the city of Waltham, of whom 4 shall be the citizens appointed to the committee during fiscal year 2004, the state representative from the ninth Middlesex house district, the state representative from the tenth Middlesex house district, and the senator from the third Middlesex senate district. The committee shall be responsible for representing the interests of the town in all negotiations with the division of capital asset maintenance and management and the department of mental retardation relative to the reuse and future development of the developmental center property. The committee shall, with the assistance of the division, develop a comprehensive reuse consensus plan for the Fernald Developmental Center state property, which shall provide a detailed description, by parcel, of how the property shall be developed upon closure of the Fernald campus. The plan shall include a description of any potential environmental degradation of the property, along with a proposal for environmental remediation, and a proposed cost for the cleanup including, but not limited to, any building demolition required on the site. The goals of the plan may include, but shall not be limited to, preservation of open space, creation of affordable housing, development of new business, the creation of recreational opportunities, the development of new community residences for the mentally retarded consumers of Fernald Center, and any other applicable community priorities. The plan may also provide for parcels of land, and specific facilities, to remain under the control of the department of mental retarda-

tion. In its deliberations, the re-use committee shall incorporate smart growth policies to the extent possible, and will be mindful of the rights of current Fernald residents, and their need for adequate and appropriate housing, clinical services and appropriate staffing provided by the department of mental retardation. The committee shall examine and consider models for the provision of these services on a section of the Fernald property. The process the committee shall follow is to be determined by a majority vote of its members and shall include a public hearing at the beginning of the process to solicit comments, ideas and re-use proposals. The committee shall develop a framework, with guidelines and parameters, as to the re-use of the property. The committee may appoint subcommittees to review particular subjects within the framework of the study, and may assign a subcommittee to produce a detailed re-use proposal. At least two-thirds of the members of the subcommittee shall be Waltham residents or officials. The subcommittee shall present the re-use proposal to the committee which shall invite the public to comment at a public hearing. The committee may amend and revise the plan in order to reach a consensus on one concept. Upon approval by the re-use committee, the plan shall be presented to the Waltham city council for approval, and, if endorsed by majority vote of the council, filed with the division of capital asset management and maintenance. The plan shall also be submitted to the chairs of the house and senate committees on ways and means, and to the house and senate chairs of the joint committee on state administration, along with copies of enabling legislation, if any, necessary to effectuate the provisions of the re-use plan. If the re-use plan provides for the conveyance of land from the state to the city of Waltham, the legislation shall provide that the price paid for such parcel be the full and fair market value of the property as determined by independent appraisal, for the uses described in the plan including, but not limited to, any restrictions or and requirements imposed by the plan. The legislation shall ensure that proceeds from any sale are first applied to repay the commonwealth for the cost of any bonds issued for environmental remediation, consulting services or other closure costs. The legislation shall also provide that any remaining proceeds be provided to the department of mental retardation for capital improvements at Fernald, at other intermediate care facilities for the mentally retarded (ICF/MRs), or at community residential settings operated by the state. The re-use committee shall meet as necessary to complete said re-use plan, as determined by a majority of the committee.

**SECTION 403.** Notwithstanding any general or special law to the contrary, any revenue collected pursuant to the assignment of lottery prizes shall be deposited into the Stabilization Fund.

**SECTION 404.** Notwithstanding section 28 of chapter 10 of the General Laws, the right to assign prize payments under subsection (4) of said section 28 of said chapter 10, shall be suspended upon: (i) the issuance by the United States Internal Revenue Service, hereinafter referred to as the "Service", of a revenue ruling or other public ruling of the Service, which rules that, based upon the right of assignment provided in said subsection (4) of said section 28 of said chapter 10, Massachusetts lottery prizewinners who do not assign any prize payments would be subject to an immediate income tax liability for the value of the entire

prize rather than annual income tax liability for each installment when paid, or (ii) the issuance by a court of competent jurisdiction of a published decision holding that, based upon the right of assignment provided in subsection (4) of said section 28 of said chapter 10, a lottery prizewinner who does not assign any prize payments under the subsection would be subject to an immediate income tax liability for the value of the entire prize rather than annual income tax liability for each installment when paid.

Upon receipt of a ruling or a proposed ruling from the Service or a published decision of a court of competent jurisdiction, as described in this section, the director of the state lottery shall immediately file a copy of that ruling or published decision with the state secretary, and the clerks of the house of representatives and of the senate. Immediately upon the filing by the director of a letter, ruling, or published decision with the state secretary, a prizewinner shall be ineligible to execute assignment of a prize under subsection (4) of said section 28 of said chapter 10.

**SECTION 405.** Notwithstanding any general or special law to the contrary, no later than July 15, 2004, the Massachusetts Technology Collaborative shall transfer \$17,000,000 to the General Fund from the Renewable Energy Trust Fund established pursuant to section 4E of chapter 40J of the General Laws. If said transfer does not occur by said date, any funds authorized for expenditure, transfer or allocation from any item of appropriation in sections 2, 2B or 2D of this act for said collaborative shall not be expended, transferred or allocated. Said transfer shall be in accordance with the provisions of subsection (l) of section 4E of chapter 40J of the General Laws, except that (i) there shall be no conditions precedent to said transfer, (ii) the condition precedent described in said subsection (l) shall be a condition subsequent to said transfer and (iii) the aggregate payments on account of the green power premium in any one fiscal year under all contracts entered into pursuant to the agreement described in said subsection (l) shall not exceed five million dollars. Said transfer shall be in lieu of the transfers from said Renewable Energy Trust Fund contemplated pursuant to section 69 of chapter 4 of the acts of 2003 and pursuant to said subsection (l). All municipal electric departments, public instrumentalities and other governmental entities in the commonwealth are hereby authorized to purchase electricity from the commonwealth or its designee pursuant to the terms of the agreement entered into between the Massachusetts technology park corporation and the commonwealth pursuant to said subsection (l) and to purchase electricity or certificates as described in said subsection (l) from said corporation or its designee, and said corporation is hereby authorized to undertake such sales to any entity in the commonwealth.

**SECTION 406.** Notwithstanding the provisions of any general or special law to the contrary, the division of medical assistance may expend an amount not to exceed \$16,000,000 from the medical assistance intergovernmental transfer account within the Uncompensated Care Trust Fund for Title XIX payments to certain publicly owned or publicly operated providers. The payments shall be established in accordance with Title XIX of the federal Social Security Act, or any successor federal statute, any regulations promulgated thereunder, the commonwealth's Title XIX state plan and the terms and conditions of agree-

ments reached with said division for such payments. No funds shall be expended unless a public entity is legally obligated to make an intergovernmental funds transfer in an amount specified in an agreement with such entity, which amount shall not be less than 50 per cent of the Title XIX payment. All revenues generated pursuant to the provisions of this section shall be credited to the medical assistance intergovernmental transfer account and administered in accordance with the provisions of subsection (o) of section 18 of chapter 118G of the General Laws.

**SECTION 407.** Notwithstanding any general or special law or regulation to the contrary, the division of medical assistance may expend, subject to federal approval, an amount not to exceed \$90,000,000 from the medical assistance intergovernmental transfer account within the Uncompensated Care Trust Fund for title XIX payments to the Quincy Medical Center. The payments shall be established in accordance with Title XIX of the federal Social Security Act, or any successor federal statute, any regulations promulgated thereunder, the commonwealth's Title XIX state plan, and the terms and conditions of agreements reached with the division for such payments. No such funds shall be expended unless the Quincy Medical Center has executed the division of medical assistance's current Acute Hospital Request for Applications and Contract, and the City of Quincy makes an intergovernmental funds transfer in the amount specified in an agreement, which amount shall be not less than 50 per cent of the Title XIX payment. No such funds shall be expended by Quincy Medical Center unless the Quincy Medical Center repays in full the entire state loan due pursuant to chapter 101 of the acts of 1999, as amended by chapter 47 of the acts of 2003; provided however, that of the amount repaid in full to the state pursuant to chapter 101 of the acts of 1999, as amended by chapter 47 of the acts of 2003, not less than \$2,662,000 shall be dedicated for a payment to a municipality in Essex county to defray debt resulting from the operation of a former municipally-owned hospital. All revenues generated pursuant to the provisions of this section shall be credited to the medical assistance intergovernmental transfer account and administered in accordance with the provisions of paragraph (o) of section 18 of chapter 118G of the General Laws.

**SECTION 408.** Notwithstanding any general or special law or regulation to the contrary, the secretary of health and human services shall seek any necessary federal waivers or regulation changes and develop a pilot program within the MassHealth primary care clinician plan for up to 25,000 disabled managed-care eligible MassHealth members. Said program shall be contracted by an open bidding process and reimbursed to include one or more Medicaid managed care organizations by the executive office at a predetermined capitated rate for each such enrolled MassHealth member. Such pilot program shall include the provision of primary care and pharmacy benefits through community health centers, hospital-licensed community health centers, and community health centers affiliated with disproportionate share hospitals. No later than 60 days prior to the implementation of said pilot program, the division of medical assistance shall notify the house and senate committees on ways and means and the secretary of administration and finance of the number of projected participants, the planned date of implementation, any expected reduction

in spending resulting from the program, and the effect on the level of services available to participating members. Hospitals providing services to persons participating in the pilot program shall be required to report data on program participants, including service and billing information, to the division of health care finance and policy and to health maintenance organization managing the care of such participants. An evaluation of the quality and cost effectiveness of the pilot program, including any expected reduction in spending resulting from the provisions of this section and the effect on the level of services available to participating members and on the uncompensated care pool, shall be completed by the secretary. The results of such evaluation shall be reported by the secretary to the house and senate committees on ways and means and the secretary of administration and finance, no later than March 1, 2005.

**SECTION 409.** Notwithstanding any general or special law to the contrary, in fiscal year 2005, the division of health care finance and policy, herein after referred to as the division, shall establish nursing facility Medicaid rates, payable out of the Health Care Quality Improvement Trust Fund, established under section 2EEE of chapter 29 of the General Laws, effective July 1, 2004 through June 30, 2005 that cumulatively total \$288,500,000 more than the annual payment rates established by the division under the rates in effect as of June 30, 2002, as mandated under section 1 of chapter 42 of the acts of 2003. The division shall adjust per diem rates to reflect any reductions in medicaid utilization. Payments from the fund shall be allocated in the following manner in fiscal year 2005:

(1) effective July 1, 2004, an annual amount of \$99,000,000 in the aggregate to fund the use of 2000 base year cost information for rate determination purposes; provided, that \$9,000,000 of said amount shall be expended for purposes of reimbursing nursing facilities for up to ten bed hold days for patients of the facility on medical and non-medical leaves of absence;

(2) effective July 1, 2004, an annual amount of \$122,500,000 for enhanced payment rates to nursing homes;

(3) effective July 1, 2004, an annual amount of \$50,000,000 to fund a rate add-on for wages, hours and benefits and related employee costs of direct care staff of nursing homes. As a condition for such rate add-on, the division of health care finance and policy shall require that each nursing home document to the division that such funds are spent only on direct care staff by increasing the wages, hours and benefits of direct care staff, increasing the facility's staff-to-patient ratio, or by demonstrably improving the facility's recruitment and retention of nursing staff to provide quality care, which shall include expenditure of funds for nursing facilities which document actual nursing spending that is higher than the median nursing cost per management minute in the base year used to calculate Medicaid nursing facility rates. A facility's direct care staff shall include any and all nursing personnel including registered nurses, licensed practical nurses, and certified nurses' aides hired by the facility from any temporary nursing agency or nursing pool registered with the department of public health. The division shall credit wage increases that are over and above any previously collectively bargained for wage increases. In monitoring compliance for this rate

add on, the division's regulations shall adjust any spending compliance test to reflect any Medicaid nursing facility payment reductions, including, but not limited to, rate reductions imposed on or after October 1, 2002. The expenditure of these funds shall be subject to audit by the division in consultation with the department of public health and the division of medical assistance. In implementing this section, the division shall consult with the Nursing Home Advisory Council;

(4) effective July 1, 2004, an annual amount of \$17,000,000 to fund rate adjustments for reasonable capital expenditures by nursing homes, giving priority to nursing homes located or constructed in under-bedded areas as determined by the division of medical assistance, in consultation with the division of health care finance and policy, that meet quality standards established by the division of medical assistance in conjunction with the department of public health and the division of health care finance and policy for the purposes of encouraging the upgrading and maintenance of quality of care in nursing homes, and to fund rate adjustments to eligible nursing homes that meet utilization standards established by the division of medical assistance in consultation with the division of health care finance and policy for the purpose of reducing unnecessary nursing home admissions and facilitating the return of nursing home residents to non-institutional settings and to the extent that an annual amount of \$17 million in this paragraph is not fully allocated, the division shall first fund capital rate adjustments for nursing homes in urban or geographically remote under-bedded areas;

(5) \$300,000 for the purposes of an audit of funds distributed pursuant to clause (3). The division of health care finance and policy, in consultation with the department of public health and with the assistance of the division of medical assistance, shall establish penalties sufficient to deter noncompliance to be imposed against any facility that expends any or all monies in violation of clause (3), including but not limited to recoupment, assessment of fines or interest. The division shall report to the house and senate committees on ways and means not later than October 1, 2005 a preliminary analysis of funds expended pursuant to said subsection in fiscal year 2005 and a description and timeline for auditing of these funds;

(6) \$250,000 to fund expenses at the division of health care finance and policy related to the implementation and administration of section 25 of chapter 118G of the General Laws; and

(7) an amount sufficient to implement the provisions of section 622 of chapter 151 of the acts of 1996;

The comptroller shall transfer from the Health Care Security Trust Fund to the Health Care Quality Improvement Trust Fund on the first business day of each quarter, the amount indicated by the divisions of health care finance and policy and medical assistance to provide the appropriate rate increases to nursing homes; and provided further, that any additional funds that may become available in the Trust due to decreased medicaid utilization shall be spent on further enhanced rates, including, but not limited to, a per-diem rate add-on for large medicaid providers as specified in 114.2 CMR 6.00 (10) (a) as in effect on September 1, 2003.

**SECTION 410.** There is hereby established a separate fund to be known as the Civil Process Technology Improvement Fund. There shall be credited to said fund all revenue from the transfer of 20 per cent of the funds collected and transmitted to the General Fund of the commonwealth during fiscal year 2005 pursuant to section 639 of chapter 26 of the acts of 2003, from gifts, grants, contributions from any entity public or private and any revenue derived from the investment of amounts credited to said fund. Said fund shall be used solely for a program to improve the efficiency, accessibility and accountability of the service of civil process within the commonwealth. The president of the Massachusetts Sheriff's Association, hereinafter referred to as the president shall expend, without further appropriation, all revenues credited to said fund. No expenditure from said fund shall cause said fund to be in deficiency at the close of a fiscal year. Notwithstanding any general or special law to the contrary, for the purpose of accommodating timing discrepancies between the receipt of revenues and related expenditures, the president may incur expenses and the comptroller may certify for payment, the amounts not to exceed the lower of said 20 per cent or the most recent revenue estimate therefore as reported in the state accounting system.

The president shall develop and implement a pilot program that is designed to improve the efficiency, accessibility and accountability of the service of civil process within the commonwealth by identifying technological resources that would enable a transition from a paper based system of civil process delivery and tracking to an electronic or web based system of civil process delivery and tracking. The president shall develop and advertise a request for proposals to so develop and implement said pilot program and shall enter into a contract with the responding vendor that most closely satisfies the specifications and terms as set forth in said request. The president shall also identify civil process divisions within county or state sheriff's offices in 4 counties that are willing to participate in said pilot program and shall enter into inter-agency service agreements with said sheriff's offices using the funds authorized by this section so as to develop, implement and monitor new technological resources within the 4 counties that participate. Said inter-agency service agreements shall include provisions that authorize the president to require any county or state sheriff's office participating in said pilot program to contribute a portion of the increased fees collected and retained by said offices pursuant to said section 639, not exceeding 20 per cent of said fees, to the Civil Process Technology Improvement Fund for the pilot program if he deems that such contribution is necessary to ensure the complete success of the pilot program.

On or before August 15, 2005, the president, in collaboration and consultation with the civil process divisions within the counties participating in the pilot program, shall prepare and file a report with the house and senate committees on ways & means detailing any efficiency, accessibility and accountability improvements made to said civil process operations as a result of the pilot program authorized by this section.

**SECTION 411.** Notwithstanding any general or special law to the contrary, during fiscal year 2005, the comptroller shall transfer from the Health Care Security Trust, established under chapter 29D of the General Laws, to the General Fund an amount equal to

100 per cent of the total of all payments received by the commonwealth in fiscal year 2005 pursuant to the master settlement agreement in the action known as Commonwealth of Massachusetts v. Phillip Morris, Inc. et. al., Middlesex Superior Court, No. 95-7378 and 50 per cent of the earnings generated in fiscal year 2005 from the Health Care Security Trust as certified by the comptroller pursuant to paragraph (f) of section 3 of chapter 29D of the General Laws for certain health care expenditures appropriated in section 2.

**SECTION 412.** Not later than 10 days after the effective date of this act, the comptroller shall transfer \$2,000,000 from the General Fund to the Affordable Housing Trust Fund, established by chapter 121D of the General Laws.

**SECTION 413.** Notwithstanding any general or special law to the contrary the commissioner of revenue shall not adjust the tax liability with respect to capital gains for the period January 1, 2002 to April 30, 2002 for any taxpayer who, before the effective date of this act, paid that liability in full for capital gains realized between January 1, 2002 and April 30, 2002, inclusive.

**SECTION 414.** Notwithstanding section 32 of chapter 186 of the acts of 2002 and sections 21 and 22 of chapter 364 of the acts of 2002, the following provisions of the General Laws shall be effective for tax years beginning on or after January 1, 2002:

(1) the second paragraph of subsection (m) of section 1 of chapter 62 of the General Laws, as appearing in section 2 of chapter 186 of the acts of 2002;

(2) paragraph (3) of subsection (b) of section 2 of said chapter 62, as appearing in section 6 of said chapter 186;

(3) the introductory clause, paragraph (1), paragraph (3), and paragraph (4) of subsection (c) of said section 2 of said chapter 62, as appearing in section 4 of chapter 364 of the acts of 2002;

(4) paragraph (2) of said subsection (c) of said section 2 of said chapter 62, as appearing in section 5 of said chapter 364;

(5) subsection (e) of said section 2 of said chapter 62, as appearing in section 7 of said chapter 364; and

(6) subsection (c) of section 4 of said chapter 62, as appearing in section 14 of chapter 186 of the acts of 2002.

**SECTION 415.** Sections 1, 3, 4, and 5 of chapter 15D of the General Laws, inserted by section 35, shall take effect on March 1, 2005.

**SECTION 416.** Section 2 of said chapter 15D, inserted by section 35, and sections 28 and 29 of this act shall take effect on July 1, 2005.

**SECTION 417.** Sections 27, and 149 to 152, inclusive, of this act shall expire on January 15, 2007, at which time the comptroller shall transfer any remaining balance in the trust to the General Fund.

**SECTION 418.** Sections 68 and 69 of this act shall take effect on July 1, 2005.

**SECTION 419.** On or before July 1, 2005, the board of registration of real estate brokers and salesmen shall promulgate regulations necessary to carry out section 156.

**SECTION 420.** Section 156 shall become effective on July 1, 2005.

**SECTION 421.** Section 164 shall take effect on October 1, 2004.

**SECTION 422.** The comptroller shall transfer any funds remaining in the Debt Defeasance Trust to the General Fund not later than June 30, 2005.

**SECTION 422A.** Section 339 shall take effect on September 1, 2004.

**SECTION 423.** Section 339 is hereby repealed.

**SECTION 424.** Section 339 shall take effect on June 30, 2006.

**SECTION 425.** Section 393 shall take effect on August 1, 2004.

**SECTION 426.** Section 393 is hereby repealed.

**SECTION 427.** Section 427 shall take effect on July 31, 2005.

**SECTION 428.** Except as otherwise specified, this act shall take effect on July 1, 2004.

*This bill was returned on June 25, 2004, by the Governor to the House of Representatives, the branch in which said bill was originated, with His objections in writing to the following items therein:*

*Items Disapproved:*

<b>SECTION 2:</b> 0331-3404	0333-1313	0610-0140	0640-0013	1102-3233
1102-3299	1231-1000	1599-6901	2000-9912	2800-9004
4000-0550	4510-0720	4513-1026	4513-1121	7003-0604
7061-0011	7100-0350	7113-0105	7114-0105	7116-0105
7511-0101				
9110-1460				

**SECTIONS:** 17, 20, 21, 32, 41, 45, 57, 58, 59, 60, 61, 62, 64, 68A, 70, 82, 94, 102, 103, 114, 118, 125, 127, 143, 145, 147, 153, 160, 161, 162, 164, 167, 168, 171, 172, 178, 181, 197, 198, 206, 221, 228, 229, 230, 231, 233, 234, 238, 241, 244, 245, 246, 255, 256, 257, 271, 276, 286, 293, 294, 295, 296, 297, 299, 300, 301, 303, 304, 305, 306, 307, 312, 313, 314, 316, 317, 320, 322, 323, 326, 329, 332, 337, 340, 343, 348, 349, 351, 352, 353, 356, 357, 361, 363, 365, 371, 373, 375, 378, 385, 386, 387, 394, 395, 396, 399, 401, 408, 410, 412, 426.

**SECTION 2** *Items reduced in amount*

Item	Reduce by	Reduce to
0321-2205	504,671	1,200,000
0330-3200	1,600,000	48,367,224
0335-0001	1,000,000	2,185,464
0610-0050	1,326,478	500,000
1599-3857	549,558	550,442
4000-0870	10,000,000	111,642,118
4590-0300	1,215,000	2,535,000

---

**Chap. 149****SECTION 2** *Items reduced in amount*

Item	Reduce by	Reduce to
6005-0015	1,000,000	47,782,640
7007-1300	460,000	500,000
8910-0102	797,200	53,146,689
8910-0105	562,084	37,472,237
8910-0107	718,534	47,902,287
8910-0108	90,681	6,045,400
8910-0110	250,222	10,180,467
8910-0145	189,788	12,652,543
8910-0619	586,714	39,114,291

**SECTION 2** *Items reduced in amount and by striking the wording*

Item	Reduce by	Reduce to	Wording Stricken
0330-0300	4,000,000	99,671,838	"; provided further, that notwithstanding any general or special law to the contrary, the chief justice for administration and management shall not transfer any criminal or civil cases from the third district court of Essex at Ipswich prior to June 30, 2005; provided further, that said chief justice shall submit a report to the house and senate chairmen of the joint committee on the judiciary not later than October 1, 2004 detailing a plan to provide for the closure of the third district court of Essex at Ipswich; and provided further, that said report shall include, but not be limited to, transfer of personnel, reallocation of resources, the impact on other district courts resulting from the closure of said court, and other factors that may affect implementation of said closure"
11000-1100	250,000	3,047,608	"; provided further, that not less than \$250,000 shall be expended on the state office of minority and women business assistance to support monitoring and enforcement of minority business enterprise and women business enterprise activity on state assisted building projects"
2000-0100	100,000	7,475,647	"; provided further, that said secretary shall file a

Item	Reduce by	Reduce to	Wording Stricken
			plan with the house and senate committees on ways and means 20 days before entering into any interdepartmental service agreements with any of the departments or divisions under said secretariat or any department, division or office under the executive office of administration and finance"
			and
			"; provided further, that \$100,000 shall be expended for a coastal shore water testing program administered by the Coalition for Buzzards Bay"
			and
			" and provided further, that the secretary, in conjunction with the commissioner of the department of capital asset management and maintenance, shall submit a building condition assessment report to the house and senate committees on ways and means by December 6, 2004 detailing a plan to repair the building on 20 Somerset Street that houses the department of conservation and recreation; provided further, that said report shall include, but not be limited to, the following: (1) a list of structural deficiencies, (2) a list of heating, ventilation, and air-conditioning system deficiencies, (3) a list of projects that are required to update said building to comply with current standards including any sprinkler, American with disabilities act improvements or other such improvements, (4) an environmental assessment done in conjunction with the department of public health to identify any environmental hazards including asbestos and lead hazards, (5) total project costs and cost estimates delineated by specific repair, (6) an estimate of the time to complete said repairs, (7) a plan on how to minimize staff disruption by examining the possibility of repairing portions of

Chap. 149

Item	Reduce by	Reduce to	Wording Stricken
			the building while staff inhabit other portions, (8) a plan to minimize the cost of leased space if staff have to move to privately owned or operated buildings"
2220-0100	518,000	27,855,935	"; provided further, that \$168,000 shall be expended for sediment control in Lake Webster" and "; provided further, that \$350,000 shall be expended for coastal pollution remediation for storm water discharge to improve the water quality of Buzzards Bay in the town of Dartmouth"
2330-0100	50,000	3,880,804	"; provided further, that \$50,000 shall be expended for the National Marine Life Center in the town of Bourne "
2820-0100	512,000	19,674,478	"; provided further, that \$150,000 shall be expended for Legion Park in the town of Weymouth" and "; provided further, that \$30,000 shall be expended for child safety equipment in the town of Milford" and "; provided further, that said Division shall file a report with the house and senate committees on ways and means no later than October 1, 2004 on the reconstruction on the Vietnam Veterans Memorial Pool in Chelsea; provided further, that said report shall include, but not be limited to the following: (a) the current condition of the pool and all related structures, (b) a detailed list of all structural deficiencies, (c) a detailed cost estimate to repair said pool and structures, (d) an estimate of the time to complete said repairs, (e)

---

**Chap. 149**

Item	Reduce by	Reduce to	<i>Wording Stricken</i>
			and any other information that said division deems necessary for the completion of this report"
			and
			"; provided further, that \$247,000 shall be expended for the James Michael Curley Recreation Center in Boston; provided further that \$85,000 shall be expended for the town of Boylston"
4000-0112	700,000	1,329,000	"; provided further, that not less than \$500,000 shall be expended for the YMCA of greater Boston to facilitate capital projects approved by the board of directors of the YMCA"
			and
			"; and provided further, that not less than \$200,000 shall be expended to the YMCA of greater Lynn to facilitate capital projects approved by the board of directors of said YMCA"
4000-0500	11,700,000	2,307,497,919	"; provided further, that said secretary shall take all steps necessary to maximize enrollment in managed care organizations in order to utilize federal dollars available under the federal upper payment limit cap"
			and
			"; and provided further, that \$11,700,000 shall be expended on disproportionate share payments to high public payer hospitals"
7003-0702	2,379,500	2,000,000	"; provided that not less than \$250,000 shall be expended on the Acre Urban Revitalization project in the city of Lowell; provided further, that not less than \$50,000 shall be expended for the Allston-Brighton vocational adjustment center for the continued operation of a job training and

---

## Chap. 149

Item	Reduce by	Reduce to	Wording Stricken
			placement center; provided further, that not less than \$8,000 shall be provided for the Bonnie Brae Camp in the city of Gardner"
			and
			"; provided further, that not less than \$100,000 shall be expended for Centro Latino de Chelsea to provide workforce training, educational services and other transitional services in the city of Chelsea"
			and
			"; provided further, that not less than \$127,000 shall be expended for the employee involvement and ownership program; provided further, that not less than \$105,000 shall be made available to the E-Team Machinist Program in the city of Lynn"
			and
			"; provided further, that not less than \$135,000 shall be expended for incumbent worker coordinators at the Massachusetts AFL-CIO; provided further, that not less than \$250,000 shall be expended on the Jackson-Appleton-Middlesex plan in the city of Lowell; provided further, that not less than \$300,000 shall be expended for the Jewish Memorial Hospital for the purposes of developing and implementing an information technology skill upgrading program for its employees; provided further, that not less than \$139,500 shall be expended for Just a Start Corporation to provide training for entry level employment in the biotech and medical fields for 30 unemployed or displaced workers, or persons receiving benefits from transitional aid to families with dependent children; provided further, that not less than \$100,000 shall be expended for the Massachusetts Career Development Institute"

Chap. 149

Item	Reduce by	Reduce to	<i>Wording Stricken</i>
			and
			"; provided further, that not less than \$75,000 shall be expended for the Martin Luther King, Jr. Business Empowerment Center in Worcester; provided further, that not less than \$50,000 be expended for Our House Family Learning and Workforce Development Center; provided further, that not less than \$195,000 shall be expended for 3 full-time equivalent rapid response labor specialists at the Massachusetts AFL-CIO; provided further, that not less than \$75,000 shall be expended to support the Technology Initiative of the Metro South/West Regional Employment Board for the development of the Technology Centers of Excellence serving the region's youth and business, and said grant shall require a 200 percent match from the private sector; provided further, that not less than \$200,000 shall be expended to the Western Massachusetts Enterprise Fund and the South-eastern Economic Development Corporation's microenterprise programs as a supplemental match to conduct an entrepreneurial training and technical assistance program for support of emerging high-growth microenterprises that are owned or employ income-eligible residents; provided further, that not less than \$40,000 shall be expended for community training in the city of Winthrop; provided further, that not less than \$100,000 shall be provided to the Workforce Investment Association of Ma, Inc. for the purpose of assisting administrators, career center directors, and fiscal agents"
7007-0515	350,000	200,000	"; provided, that not less than \$150,000 be expended on the Cape Cod Regional Incubator Project to be operated by the Cape Cod Chamber of Commerce"
			and

Chap. 149

Item	Reduce by	Reduce to	Wording Stricken
			"; and provided further, that not less than \$200,000 shall be expended for a grant to the South Shore Tri-Town Development Corporation established in chapter 301 of the acts of 1998"
7007-0900	6,884,531	10,168,774	"; provided further, that not less than \$60,000 shall be expended for an economic development project operated by the Arlington Neighborhood Association in the city of Lawrence; provided further, that not less than \$200,000 shall be expended for the Bay State Games"
			and
			"; provided further, that not less than \$500,000 shall be expended for the Berkshire Museum subject to a 100 per cent funding match"
			and
			"; provided further, that not less than \$100,000 shall be expended for an economic development project in the town of Braintree; provided further, that not less than \$100,000 shall be expended for a Business Location Information Project operated by the Greater Haverhill Chamber of Commerce"
			and
			"; provided further, that not less than \$100,000 shall be expended for a matching grant to the proposed Cape Cod Maritime Museum in Hyannis; provided further, that not less than \$50,000 shall be expended for the Caribbean Carnival Association; provided further, that not less than \$75,000 shall be expended for a technology training program operated by the Cape Cod Technology Council; provided further, that not less than \$50,000 shall be expended for a the Central Quabbin Tourism Association; provided further, that not less than \$30,000 shall be expended for an economic development project at Chestnut Hill Reservoir in the city of Boston;

Item	Reduce by	Reduce to	Wording Stricken
			provided further, that not less than \$94,531 shall be expended for City Stage; provided further, that not less than \$1,000,000 shall be expended for the Colonial Theater, subject to a 100 per cent funding match; provided further, that not less than \$100,000 shall be expended for an economic development project at the historic Corkin building in the town of Randolph; provided further, that not less than \$75,000 shall be expended for the Cultural Center of Cape Cod; provided further, that not less than \$15,000 shall be expended for an education and science grant for the city of Worcester; provided further, that not less than \$200,000 shall be provided for an economic development project at the Elco Dress Factory in New Bedford; provided further, that not less than \$100,000 shall be expended for the Freedom Trail Foundation; provided further, that not less than \$300,000 shall be expended for a grant for the From the Top Inc.; provided further, that not less than \$100,000 shall be expended for a tourism promotion project at the Grandview Farm in Burlington; provided further, that not less than \$125,000 shall be expended for a historic development project at the Worcester Center for the Performing Arts; provided further, that not less than \$500,000 shall be made available through a grant application process established by the office of travel and tourism to offset deficits that may occur during fiscal year 2005 for the highway information centers operating year-round on state highways and federally-assisted highways, and the visitor information centers on Boston Common and the Prudential Center, both in the city of Boston; provided further, that not less than \$100,000 shall be expended for the I-495 Technology Corridor Initiative; provided further, that not less than \$165,000 shall be expended for the International

Chap. 149

Item	Reduce by	Reduce to	Wording Stricken
			Trade Assistance Center in Fall River; provided further, that not less than \$50,000 shall be expended for the Johnny Appleseed Visitor's Center; provided further, that not less than \$500,000 shall be expended for the Mahaiwe Theater subject to a 100 per cent funding match"
			and
			"; provided further, that not less than \$200,000 shall be expended for the Memorial Auditorium in the city of Lynn; provided further, that not less than \$250,000 shall be expended for the Merrimack Valley Economic Development Council"
			and
			"; provided further, that not less than \$500,000 shall be expended for the Mohawk Theater, subject to a 100 per cent funding match; provided further, that not less than \$50,000 shall be expended for the New Bedford Art Museum"
			and
			"; provided further, that not less than \$50,000 shall be expended for the North End Visitor Center in the city of Boston; provided further, that not less than \$75,000 shall be expended for the Old Provincial State House; provided further, that not less than \$40,000 shall be expended as a grant for the Pioneer Valley Planning Commission for the purposes of a study of tourism promotion within Southamptton and Montgomery; provided further, that not less than \$40,000 shall be expended as a grant for the Pioneer Valley Visitors and Tourist Information Center; provided further, that not less than \$35,000 shall be expended for the Pittsfield Office of Cultural Development; provided further, that not less than

Item	Reduce by	Reduce to	Wording Stricken
			<p>\$100,000 shall be expended for a portico surrounding Plymouth Rock; provided further, that not less than \$75,000 shall be expended for the Puerto Rican Cuatro Project; provided further, that not less than \$50,000 shall be expended for the Riverside Theater Works in Hyde Park in the City of Boston; provided further, that funds shall be expended for an economic development project on Rt. 110 in Amesbury; provided further, that not less than \$100,000 shall be expended for the Russian Community Association; provided further, that not less than \$25,000 shall be expended for the Salisbury Chamber of Commerce"</p> <p>and</p> <p>; provided further, that not less than \$250,000 shall be expended for the Southcoast Development Partnership for the purposes of regional tourism and economic development; provided further, that not less than \$100,000 shall be expended for the city of Springfield's Office of Economic Development to develop a walking tour of the city of Springfield; provided further, that not less than \$100,000 shall be expended for the U.S. Women's Open; provided further, that not less than \$75,000 shall be expended for the Waltham Tourist Council; provided further, that not less than \$30,000 shall be expended for the Water Farms Preservation, Inc."</p> <p>and</p> <p>"; provided further, that not less than \$50,000 shall be expended for a tourism promotion project in Westborough"</p>
7007-1200	2,000,000	1,025,000	<p>"; provided further, that not less than \$2,000,000 shall be expended on one-time grants-in-aid and related activities in support of the creation, oper-</p>

Chap. 149

Item	Reduce by	Reduce to	Wording Stricken
			ation, and evaluation of a pilot wireless learning initiative; provided further, that said grants shall be matched by contributions from federal or local public entities, private entities, and other qualified investment entities equal to two times the expenditures on said pilot from this line item"
8000-0000	75,000	1,876,429	"; provided further, that not less than \$25,000 shall be expended to provide additional Milton Police patrols for the portion of the Neponset River bicycle path in the town of Milton; provided further, that not less than \$50,000 shall be expended for a commission to be known as the State Resilience Development and Anti-Terrorism Commission which shall be comprised of 5 members who shall be appointed by the Inspector General; provided further, that the commission shall be responsible for researching, developing, and coordinating resilience- building programs and protocols, including, but not limited to, risk communication protocols, community strategies to maximize public adherence to disaster contingency plans, training for teachers and school personnel to guide students through disasters and tools for first responders to maximize their effectiveness during and after a crisis; provided further, that the commission shall approve and audit all state, local and regional programs and ensure that all state, local and federal funding and grants are appropriately expended; provided further, that the commission shall analyze state and local preparedness for terrorism to ensure that the state public health infrastructure is prepared to adequately respond to the psychological and physical consequences across a continuum of possible terrorism events; provided further, that the commission shall ensure that state and local disaster planners address psychological and physical consequences

Item	Reduce by	Reduce to	Wording Stricken
			in their planning and preparedness and in their response to pre-event, event and post-event phases of terrorist attacks; provided further, that due consideration shall be given to needs associated with different types of terrorism events and to needs for various segments of the population; provided further, that due consideration shall also be given to providing adequate state and local prioritization and funding of resources and support for psychological preparedness and response; provided further, that the commission shall develop strategies for encouraging state public health and mental health agencies to closely collaborate in the development of integrated, science-based programs and protocols designed to increase psychological resilience and mitigate distress reactions and maladaptive behaviors to a conventional, biological, chemical or radiological attack in the commonwealth; provided further, that the commission may hire staff, contract and enter into agreements for the operation of the commission; and provided further, that the commission may seek grants and other funding sources for the operation of the commission"
8100-0000	2,328,946	194,046,156	"; provided further, that not less than \$2,328,946 shall be expended for the payroll costs of the state police directed patrols; provided further, that any community that was selected to receive earmarked funds in fiscal year 2004 shall receive 100 per cent of the amount so earmarked in fiscal year 2005"
8400-0001	110,000	45,750,316	"; provided further, that not less than \$110,000 shall be expended to operate a license express office in the city of Lynn"
8900-0001	2,658,500	426,965,825	"; provided, that the department shall expend not less than \$1,008,500 to cities and towns hosting

Chap. 149

Item	Reduce by	Reduce to	Wording Stricken
			facilities; provided further, that one-half of the number of inmates incarcerated at Souza Baranowski correctional center shall be deemed to be incarcerated within a correctional facility in the town of Shirley and one-half shall be deemed to be incarcerated within a correctional facility in the town of Lancaster"
			and
			"; provided further, that not less than \$875,000 shall be provided for emergency safety equipment grants"
			and
			"; provided further, that not less \$200,000 shall be provided for the Aid to Incarcerated Mothers organization; provided further, that the department shall expend not less than \$500,000 to the community hosting the facility at Cedar Junction"
			and
			"; provided further, that not less than \$75,000 shall be expended for the 5-A program in the Springfield"
8910-0000	1,950,000	131,718,218	"; provided further, that notwithstanding the provisions stated in this item, the maintenance of effort obligations for Suffolk county shall be 4 per cent of the total fiscal year 2005 Suffolk county correction operating budget as approved by the county government finance review board"

SECTION 2 *Items disapproved by striking the wording:*

Item	Wording Stricken
1000-0001	"; provided further, that notwithstanding the provisions of any general or special law to the contrary, the comptroller shall deduct an amount of \$1,000 from any item of appropriation in section 2 of

Item	<i>Wording Stricken</i>
	<p>this act in which a reporting requirement is stipulated within said item and which report is not filed within 10 days of the stated due date; provided further, that any and all amounts deducted shall be deposited in the General Fund and the comptroller shall notify the house and senate committees on ways and means of any and all amounts so deducted"</p> <p>and</p> <p>"; provided further, that 60 days prior to entering into any interdepartmental service agreements the comptroller shall notify the house and senate committees on ways and means; provided further, that said notification shall include, but not be limited to, a description of the project, the purpose and intent of the interdepartmental service agreement, a projection of the costs avoided in the current fiscal year, a copy of the contract with the private vendor including the proposed rate of compensation and any previous agreements related or similar to the new agreement with the above information"</p>
1102-3206	"; provided further, that the commissioner of the division of capital asset management and maintenance shall convey a certain parcel of land with the building thereon, located at 291 Summer Street, Lowell and recorded with the North District Registry of Deeds, Book 1491, Page 170, to the current occupant of said premises"
1107-2501	"; provided further, that the commission shall report to the house and senate committees on ways and means not later than the last day of each quarter on the number of claims of abuse by caretakers made by employees or contracted service employees of the departments of mental retardation and mental health and the Massachusetts rehabilitation commission; provided further, that the report shall include: (i) the number of claims found to be substantiated; (ii) the number of claims found to be unsubstantiated; and (iii) the number of claims found to be falsely reported as a result of intentional and malicious action"
1110-1000	"; and provided further, that administrative appeals of department of environmental protection decisions shall be filed directly with the division of administrative law appeals"

Item	<i>Wording Stricken</i>
1201-0130	<p>"; provided further, that the department of revenue shall conduct an investigation pursuant to the recommendations made by the office of the inspector general in a report dated January 23, 2004 to determine whether any tax credits previously authorized under section 38N of chapter 63 of the General Laws should be recaptured by the commonwealth; provided further, that the department shall file a report with the house and senate committees on ways and means no later than September 1, 2004 on the findings of said investigation"</p> <p>and</p> <p>"; provided further, that the commissioner of revenue shall study the potential impacts of the disclosure by the commissioner of a list of all taxpayers, including but not limited to individuals, trusts, partnerships, corporations, 121A corporations and other taxable entities, that are delinquent in the payment of their tax liabilities in an amount greater than \$25,000 for a period of 6 months from the time the taxes were assessed; provided further, that the commissioner shall at least annually publish a list of all taxpayers who are delinquent in the payment of any tax liability and shall publish said list on the department's website, with a link to said list clearly situated on the website, and at the same time, may also publish the list in any print media and electronic media of the commissioner's choosing; provided however, that the commissioner shall not publish or post on any list of delinquent taxpayers the name of any taxpayer or person who is accused of being delinquent in the payment of any tax liability until said taxpayer or person has exhausted all appellate action including, but not limited to, appeals before the appellate tax board, any division of the trial court, the commissioner of revenue, any municipality, any other tax collecting authority in the commonwealth or any other possible avenue of appeal; provided further, that said list shall include, at a minimum, information indicating whether the taxpayer is an individual, the name of the taxpayer, if the taxpayer is a business entity; provided further, that the list shall include also the address of the taxpayer, the type of tax for which the taxpayer is delinquent, the year the tax was assessed, and the amount of total tax liability outstanding, including penalties and interest; provided further, that the commissioner shall make the list available for public inspection at the department upon request during the regular business hours; provided further, that the</p>

commissioner shall provide the registrar of motor vehicles and the assessors in each city and town with a list of the names and addresses of taxpayers who filed resident income tax returns; provided further, that the purposes of the lists are to identify residents who may have improperly registered their motor vehicles and failed to pay motor vehicle registration fees, state sales and use taxes and local motor vehicle excises; and provided further, that the commissioner shall direct the assessors to provide to all real property owners a notice inserted with each tax bill describing section 3 of chapter 90 of the General Laws"

**1201-0160**

"; provided further, that all such allocations shall be reported quarterly to the house and senate committees on ways and means upon the allocation of said funds"

and

"; provided further, that the department shall file quarterly reports with the house and senate committees on ways and means, detailing the balance, year-to-date and projected receipts and year-to-date and projected expenditures, by subsidiary, of the child support trust fund established pursuant to section 9 of chapter 119A of the General Laws; and provided further, that the department shall file a performance report with the house and senate committees on ways and means on or before January 15, 2005 detailing current staffing levels by function and performance indicators, including, but not limited to, TAFDC and non-TAFDC caseloads, collection levels, court cases, paternities established, court orders established, average employee workload, federal reimbursements, projections of said indicators for the remainder of the fiscal year and any deviations of current performance from previous projections"

**1232-0200**

"; provided further, that the board shall submit to the house and senate committees on ways and means a report on the status of the underground storage program, including, but not limited to, the number of municipal grants made for the removal and replacement of underground storage tanks and the reimbursements for remediated petroleum spills; provided further, that the report shall detail how many tanks are out of compliance with chapter 21J; and provided further, that the report shall be submitted not later than February 16, 2005"

---

## Chap. 149

Item	<i>Wording Stricken</i>
1410-0400	<p>"; provided further, that notwithstanding any general or special law to the contrary, the secretary of veteran services may continue a training program for veterans' agents and directors of veterans' services in cities and towns; provided further, that the purpose of such training program shall be to maximize federal assistance available for veterans and to assure that such agents and directors receive uniform instruction on providing veterans and dependents with advice relative to procurement of state, federal and local benefits to which they are entitled, including employment, education, health care, retirement and other veterans' benefits; provided further, that the subject matter of such training program shall include benefits available under said chapter 115 and alternative resources, including those which are partially or wholly subsidized by the federal government, such as medicaid, Supplemental Security Income and Social Security Disability benefits, as well as federal pension and compensation entitlements; provided further, that the secretary shall promulgate regulations for the training program; provided further, that upon successful participation by such veterans' agents or directors of veterans' services in such training program, the costs of such training program incurred by the several cities and towns shall be reimbursed by the commonwealth on or before November 10 following the fiscal year in which such costs were paid"</p>
1599-1971	<p>"; provided, that the secretary for administration and finance shall submit to the house and senate committees on post audit and oversight, the house and senate committees on transportation and the house and senate committees on ways and means a report on snow and ice control efforts no later than September 1, 2004 which shall include, but not be limited to, the following: (a) a list of amounts paid to each vendor from state appropriations for snow and ice control efforts for fiscal years 1998, 1999, 2000, 2001, 2002, 2003 and 2004; (b) a comparison of the average snowfall by county as reported by the national weather service and the amount of state snow and ice control effort funds appropriated by county for fiscal years 1998, 1999, 2000, 2001, 2002, 2003 and 2004; (c) a detailed account of the administrative oversight exercised by either the secretary for administration and finance, the secretary of transportation or the department of highways for snow and ice control efforts, including an explanation of measures taken to verify services provided, audit vendor payment vouchers, or any other measures taken</p>

to ensure accountability relative to the expenditure of the state funds for snow and ice control efforts; (d) a comparison delineated by county of the commonwealth of the amounts expended on snow and ice control efforts to the daily snowfall amounts as reported by the national weather service; (e) information on the transponder program that was implemented during fiscal year 2004, including, but not limited to, the number and cost of transponders leased or purchased, costs associated with maintenance and warranties for said transponders, the useful life of said transponders, the number of incidents when transponders failed or malfunctioned, the number of transponders that were damaged, estimated costs of continuing said program, the compliance rate of vendors using transponders, the number of transponders that were damaged or broken, the number of appeals by contractors for transponders that may have failed or malfunctioned, a list of any contractors that were accused of, charged with or prosecuted for fraudulent snow and ice removal claims; and (f) any other information that said secretary determines is necessary to account for and explain the extraordinary expenditure of state appropriations for the control and removal of snow and ice; provided further that the study indicates how many salt storage facilities in the commonwealth are in conformance with section 7A of chapter 85 of the General Laws and how many are not; and provided further, that no funds shall be expended or allocated from this item of appropriation until said secretary, the commissioner of highways and any other officer of the commonwealth involved in snow and ice control efforts has submitted all documentation, testimony, data and other information as required by the provisions of this appropriation and said report has been filed with said committees in the exact manner as stipulated herein"

"; provided further, that the county government finance review board shall, by January 1, 2005, have developed a plan for the spending of all funds for fiscal year 2005, and developed a sound fiscal spending plan for fiscal year 2006; provided further, that the board shall build the spending plans with the direct input of the seven sheriffs still functioning under the county government system; provided further, that by January 15, 2005 the board shall report all spending plans to the house and senate committees on ways and means; provided further, that the information shall satisfy all fiscal requirements for

---

**Chap. 149**

Item	<i>Wording Stricken</i>
	a maintenance level of funding, including, but not limited to, collective bargaining increases, legal fees, debt services, one time costs, energy costs, equipment leases, medical costs, and workers' compensation issues; provided further, that no other spending information or requests shall be submitted to the house and senate committees on ways and means by the individual sheriffs until February 15, 2005; provided further, that the board shall also provide a projection of all county funds to be collected for fiscal year 2005 and 2006"
1750-0111	"; provided, that the division shall file quarterly reports with the house and senate committees on ways and means detailing the number of tests administered and the amount of revenue collected through said program"
1750-0201	"; provided further, that the human resources division shall submit a semi-annual report to the house and senate committees on ways and means detailing all expenditures on said program including, but not limited to, the costs of personnel, consultants, administration of the wellness program, establishment of standards and any other related costs of said program; and provided further, that said division shall report to the house and senate committees on ways and means by February 1, 2005 on the projected costs of said program for fiscal year 2005"
2010-0100	"; provided, that the department shall be prohibited from increasing the number of full-time employees paid from this item above the number assigned to this item on March 1, 2003"
2260-8870	"; provided further, that the department shall submit a report to the house and senate committees on ways and means on or before October 1, 2004 detailing the number of full-time equivalent positions assigned to tier IA, tier IB, tier IC and tier II projects"
2320-0100	"; provided further, that trash dumpsters shall be prohibited in all public landings situated in residential areas; provided further, that the division of fisheries and wildlife shall post signs in said areas prohibiting littering; provided further, that said signs shall require users of said public landings to carry off all personal belongings and trash"

Item	<i>Wording Stricken</i>
2511-0100	"; provided, that notwithstanding any general or special law or regulation to the contrary, any regulation promulgated or enforced by said department that, if finally enforced with regard to a person or entity violating said regulation, would cause the closure of a business or the loss of a license issued by said department and ultimately result in job loss to such persons or entities shall be reviewed by the division of administrative law appeals in an expedited fashion prior to final enforcement of said regulation unless said closure and/or license revocation is designated as a public health emergency by the commissioner of said department; provided further, that said person or entity shall be entitled to present to said division, at the time of said review, information summarizing the economic impact that would result from final enforcement as it relates to the nature of the violation alleged by said department"
2800-0100	"; provided further, that the department of conservation and recreation shall file a report with the house and senate committees on ways and means no later than December 6, 2004 detailing the merger of the former metropolitan district commission with the former department of environmental management into the department of conservation and recreation; provided further, that said report shall include, but not be limited to, the following: (1) the names, salaries, and the positions of all full time equivalent, so-called personnel that were scheduled to be paid out of item 2800-0100 as of September 1, 2003, March 1, 2004 and August 1, 2004, (2) the job descriptions, employee name, current job title, and the item of appropriation said employees were assigned to in fiscal years 2002 and 2003 and the item of appropriation that they are currently funded from, (3) a list by subsidiary and object code of all expenditures or allocations from items of appropriations under the executive office of environmental affairs in fiscal year 2004 on the commonwealth development coordinating council, (4) a list of all deputy commissioners and deputy associate commissioners, and their assigned duties, (5) the number of full time equivalent positions, so-called that have been eliminated due to said merger, (6) any efficiencies that have been achieved from said merger; provided further, that said secretary shall file a report on the number of employees funded through capital authorizations with the house and senate committees on ways and means no later than December 6, 2004, that shall include, but not be limited to, the following: (1) the

number of full time equivalent positions so-called, delineated by fiscal year, item of appropriation and position number, job title and job code for that have been funded from capital authorizations for fiscal years 2001 to 2005 inclusive, for every item of appropriation under control of said secretary, (2) every program that has been funded from capital authorizations for fiscal years 2001 to 2005 inclusive delineated by fiscal year, program and item of appropriation, (3) detail every full time equivalent, so-called and program that has been moved to capital authorizations since fiscal year 2001"

**2820-2000**

"; provided further, that the secretary of environmental affairs shall submit to the house and senate committee on post audit and oversight and the house and senate committees on ways and means a report no later than September 1, 2004 which shall include, but not be limited to, the following: (a) a list of amounts paid from state appropriations for snow and ice control efforts for fiscal years 1998, 1999, 2000, 2001, 2002, 2003 and 2004 (b) any other information that said secretary determines is necessary to account for and explain the extraordinary expenditure of state appropriations for the control and removal of snow and ice; provided further, that no funds shall be expended from this appropriation until said secretary, and any other officer of the commonwealth involved in snow and ice control efforts has submitted all documentation, testimony, data and other information as required by the provisions of this appropriation; and provided further, that after said report has been submitted with the proper information and in the exact format requested by the legislature an additional amount of \$733,434 may be appropriated for snow and ice control efforts"

**2820-9005**

"; provided further, that said department shall file a report with the house and senate committees on ways and means no later than September 1, 2004 on measures taken to ensure efficiency and cost effectiveness of their street lighting program that shall include, but not be limited to, the following: (1) all efforts taken by said department to reduce street lighting costs in fiscal years 2002, 2003 and 2004, (2) efforts to reduce the amount paid for electricity through bulk purchasing agreements, (3) a long range plan on energy savings initiatives; provided further, that no funds shall be expended from this appropriation until said department has submitted all documentation, testimony, data and other information as required by

the provisions of this appropriation; and provided further, that after said report has been submitted with the proper information and in the exact format requested by the legislature an additional amount of \$1,303,326 may be appropriated for street lighting efforts"

**4000-0300**

"; provided further, that the executive office may continue to recover provider overpayments made in the current and prior fiscal years through the medicaid management information system, and that such recoveries shall be deemed current fiscal year expenditure refunds; provided further, that the executive office shall report quarterly to the house and senate committees on ways and means the amounts of said expenditure refunds credited to each item of appropriation"

and

"; provided further, that in determining inpatient rates for any acute hospitals the executive office shall utilize the same payment methodology, including all exemptions, rate adjustments and passthrough payments, as was in effect on July 1, 2003; provided further that in determining outpatient rates for any acute hospitals the executive office shall utilize the same payment methodology, including all exemptions and rate adjustments, as was in effect on October 1, 2003; provided further, that any hospital with a unit designated as a pediatric specialty unit, as defined by this act, shall be exempt from the inpatient and outpatient efficiency standards, so called, being applied to their rate methodology; provided further, that said executive office shall use the same pricing methodology for durable medical equipment and oxygen as was in effect on July 1, 2003; provided further, that said executive office shall not reduce the supplement to chronic disease and rehab hospitals administrative day rate below that which was granted during hospital fiscal year 2004; provided further, that said executive office in fiscal year 2005 shall not eliminate payment to hospital outpatient departments for primary care provided to MassHealth members; and provided further, that said executive office shall implement a pilot project for 25,000 disabled MassHealth members as authorized by this act that shall encourage the use of community health centers for primary care services and shall submit a report to the house and senate committees on ways and means no later than February 1, 2005 on the feasibility of expanding this pilot project to all MassHealth members"

---

## Chap. 149

Item	<i>Wording Stricken</i>
4000-0895	" ; provided, that pursuant to an interagency agreement established with the executive office, the department of public health shall determine the presumptive eligibility of low-income pregnant women for services available under Title XIX and chapter 118E of the General Laws; provided further, that the department shall report to the house and senate committees on ways and means on the population served by the program delineated by federal poverty level, the cost of each segment of the population delineated by federal poverty level, as well as any long term cost savings achieved by providing the services to the populations; and provided further, that the department shall include in said report a breakdown of the costs incurred by said program from the time when eligibility was expanded to 225 per cent of the federal poverty level"
4100-0060	" ; provided further, that notwithstanding any general or special law or rule or regulation to the contrary, the division shall not allow any exceptions to the usual and customary charge defining rule as defined in 114.3 CMR 31.02, for the purposes of drug cost reimbursement to eligible pharmacy providers for publicly aided and industrial accident patients"  and  " ; provided further, that notwithstanding any general or special law to the contrary said division shall maintain the rate paid for the dispensing fees to retail pharmacies for prescribed drugs to publicly aided or industrial accident patients at \$3 in fiscal year 2005"
4120-1000	" ; provided further, that the commissioner shall report quarterly to the house and senate committees on ways and means and the secretary of administration and finance on the number of clients served and the amount expended on each type of service"
4120-5050	" ; and provided further, that the commission shall submit a report to the house and senate committees on ways and means not later than February 3, 2005, detailing the use of any funds encumbered or expended from this item, including, but not limited to, the number of clients served, the types of services purchased and the annualized impact of the expenditures in the subsequent fiscal year"
4130-0001	" ; provided, that the office shall issue monthly reports detailing the number and average cost of voucher and contracted child care slots

Item	<i>Wording Stricken</i>
	funded from items 4130-3050 and 4130-3600 by category of eligibility; provided further, that the report shall include the number of recipients subject to subsection (f) of section 110 of chapter 5 of the acts of 1995 funded under item 4130-3050; provided further, that the office shall report quarterly to the house and senate committees on ways and means and the secretary of administration and finance on the unduplicated number of children on waiting lists for state-subsidized child care"
	and
	"; provided further, that the office shall report quarterly to the house and senate committees on ways and means and secretary of administration and finance on the error rate, if any, in income-eligibility determinations calculated by the post audit reviews"
4190-1101	"; and provided further, that the Soldiers' Home shall submit a quarterly report to the house and senate committees on ways and means on any expenditures made from this account"
4200-0010	"; provided, that the department shall submit a report to the house and senate committees on ways and means not later than February 1, 2005, detailing the caseload for all department programs funded in items 4200-0100, 4200-0200 and 4200-0300"
4401-1000	"; and provided further, that all of this item is subject to appropriation and, in the event of a deficiency, nothing herein shall give rise to or shall be construed as giving rise to any enforceable right or entitlement to services in excess of the amounts appropriated by this item"
4403-2000	"; and provided further, that notwithstanding any general or special law to the contrary, 60 days before promulgating any eligibility or benefit changes, the commissioner shall file with the house and senate committees on ways and means and with the clerks of the senate and house of representatives a determination by the secretary of health and human services that available appropriations for the program will be insufficient to meet projected expenses and a report setting forth the text of and basis for such proposed changes"
4403-2120	"; provided further, that the department shall report quarterly to the house and senate committees on ways and means on the status of efforts to increase the number of units of scattered site shelter above

the number contracted for in fiscal year 2004, any barriers encountered to increasing the number of units of scattered site shelter and the plan of action or recommendations for overcoming any barriers encountered"

and

"; provided further, that notwithstanding any general or special law to the contrary, 60 days before promulgating any such eligibility or benefit changes, the commissioner shall file with the house and senate committees on ways and means and with the clerks of the house of representatives and the senate a determination by the secretary of health and human services that available appropriations for the program will be insufficient to meet projected expenses and a report setting forth such proposed changes"

and

"; provided further, that nothing in the preceding proviso shall authorize the department to alter eligibility criteria or benefit levels, except to the extent that such changes are needed to avoid a deficiency in this item; provided further, that the department shall report quarterly to the house and senate committees on ways and means on the number of families who apply for emergency assistance funded family shelter, the number of families approved for shelter, the number of families denied shelter along with reasons for denials, the home community of families receiving shelter; the number of families receiving shelter within each home community, the number of available shelter slots within each home community, the income level of families receiving shelter, the number of families receiving shelter who had previously accessed state-funded programs to reduce homelessness and the programs that had been accessed, the composition of families receiving shelter, the reason that the household is seeking emergency family shelter, the reasons that families exit shelter, including reasons for voluntary departure and termination, exiting families' housing plans, including type of housing arrangement, subsidy status, monthly rent, and gross monthly income, and any other information that the department determines to be necessary in evaluating the operation of the emergency assistance family shelters program; and provided further, that the report shall also include information, by type of shelter, on

Item	<i>Wording Stricken</i>
	average length of stay, average cost per household served, average number of shelter slots not used either as the result of no placement being made or of a placed family not making use of shelter, and an analysis of this data, including an analysis of causes relating to any significant differences in the data for each type of shelter"
4408-1000	"; and provided further, that notwithstanding any general or special law this item to the contrary, 60 days before implementing any eligibility or benefit changes, or both, the commissioner shall file with the clerks of the house of representatives and the senate a determination by the secretary of health and human services that available appropriations for the program will be insufficient to meet projected expenses and a report setting forth the proposed changes"
4510-0110	"; provided further, that the department shall submit a tentative allocation schedule of the community health center grants to the house and senate committees on ways and means not later than February 1, 2005"
4510-0710	"; provided further, that the division shall report quarterly to the house and senate committees on ways and means on the number of incident reports and, for those reports requiring investigations under said section 72H of said chapter 111, indicating for each such report, the time in which: (1) the division completed its investigation; (2) the division made an evaluation and determination of the validity of the report; (3) made a referral of such report to the appropriate agency or agencies; provided further, that if in any quarter the division maintains a backlog of cases requiring investigation that have not been investigated, evaluated and determined within the time frames established in said section 72H of said chapter 111, the division shall include in the report an explanation as to the reasons therefore; provided further, that the division shall include in the report a list of all instances of the payment of overtime for investigators and the justification therefore and in each quarter shall compare the overtime expenditures from this item with the overtime expenditures made in the corresponding quarter of fiscal year 2004"
4510-0723	"; provided, that the board of registration in medicine shall prepare an annual report addressing its activities with respect to licensing, enforcement, law and policy, patient safety, and other relevant topics, including, but not limited to, the total number of cases refer-

red to and reviewed by the board, the resolution of the cases, the approximate number of cases assigned to each investigator, any increases or decreases in cases referred to the board in the previous 6 months; a compilation of cases from its patient care assessment program describing incidents involving preventable medical error that resulted in harm to patient or health care provider for the purpose of assisting the providers, hospitals, and pharmacies to modify their practices and techniques to avoid error, and any other relevant topics; provided further, that the board shall submit the report to the general court, house and senate committees on ways and means and the joint committee on health care by January 4, 2005 and shall make the compilation widely available, including by electronic means, to the public; and provided further, that the board shall promulgate rules and regulations to coordinate their patient care assessment program with the boards of nursing and pharmacy"

**4510-0725**

"; provided further, that the department of public health, in cooperation with the division of professional licensure, shall submit a plan to the house and senate committees on ways and means for transferring the boards of allied health professionals, podiatry, optometry, chiropractors, health officers, speech language pathology and audiology, dispensing opticians, psychologists, hearing instruments specialists and dieticians and nutritionists from the division of professional licensure to the department of public health not later than February 1, 2005; and provided further, that the plan shall consider current funding levels and shall propose no additional costs"

**4510-0790**

"; provided further, that the department shall report quarterly on the number of investigations of ambulance services performed by said inspectors and by inspectors funded in items 4510-0710 and 4510-0712 as well as the number of investigations pending at the end of each quarter and the reasons therefore"

and

"; provided further, that the department shall report to the house and senate committees on ways and means not later than January 15, 2005 on the implementation of the certifications and availability of epinephrine"

---

**Chap. 149**

Item	<i>Wording Stricken</i>
4512-0500	"; and provided further, that the department shall submit to the house and senate committees on ways and means a quarterly report on the number of children served by this dental health services program and the number of children waiting to be served by the program"
4513-1020	"; provided further, that the department shall report quarterly to the house and senate committees on ways and means the total number of units of service purchased and the total expenditures for the units of service paid by the department, the division of medical assistance, and by third party payers for early intervention services for the following services categories: home visit, center-based individual, child-focused group, parent-focused group, screening, and assessment"  and  "; provided further, that the department shall submit to the house and senate committees on ways and means a report on the number of families served by said program and the amount of funds appropriated herein granted to qualified families not later than February 1, 2005"
4590-0912	"; provided further, that all revenues expended shall be pursuant to schedules submitted to the secretary of administration and finance and the house and senate committees on ways and means"
4800-0038	"; provided further, that the commissioner of the department of social services shall file a report with the house and senate committees on ways and means no later than September 1, 2004 on the implementation of said rate increase, the amount the rates will be adjusted by service type and age group, and any other information said commissioner deems necessary; provided further, that the department shall report monthly to the house and senate committees on ways and means on the number of clients served, the cost per unit of service and any available information on the outcome of services provided for each program funded from this item; provided further, that service providers shall provide the department with all information necessary to allow the completion of these reports"
4800-0041	"; provided further, that the department shall provide quarterly reports detailing the number of children diverted from residential settings, the programs in which they were placed, the associated cost savings from the diversion and any other measurements that would

---

## Chap. 149

Item	<i>Wording Stricken</i>
	help assess the success of these programs in promoting the health and well-being of children"
5042-5000	"; provided further, that the department shall submit a report to the house and senate committees on ways and means not later than January 15, 2005 on the results of the collaboration between the department and the other departments within the executive office of health and human services; provided further, that the report shall detail the current status of the implementation of clinically appropriate service models for that population of children and adolescents, remaining disparities in the service system which require children and adolescents to be served in unnecessarily restrictive or otherwise clinically inappropriate settings and changes during fiscal years 2003 and 2004 in the clinical acuity of children and adolescents"
5046-0000	"; and provided further, that the department shall report to the house and senate committees on ways and means on the distribution of funds per adult and child planning population and the types of services received in each region for fiscal year 2005 not later than February 1, 2005"
5047-0001	"; provided further, that the department shall report to the house and senate committees on ways and means not later than January 30, 2005, on the utilization of said emergency programs and acute inpatient beds by clients of the department during each month of fiscal year 2004; provided further, that said report shall detail the number of clients of the department determined to be eligible for the medicaid program during fiscal year 2004; and provided further, that said report shall detail expenditures made by the division of medical assistance on behalf of clients of the department and those uninsured persons not deemed to be clients of said department from the amounts appropriated in item 5047-0001 of section 2 of chapter 26 of the acts of 2003 during fiscal year 2004 for said acute inpatient care and emergency services"
5047-0002	"; provided further, that upon such deposit, the secretary of administration and finance shall certify in writing to the house and senate committees on ways and means that the amount has been deposited in the General Fund"
	and

---

## Chap. 149

Item	<i>Wording Stricken</i>
	"; and provided further, that the department shall submit a report to the house and senate committees on ways and means not later than February 3, 2005 detailing the use of any funds encumbered or expended from this item including, but not limited to, the number of clients served, the types of services purchased by region and the annualized impact of the expenditures in the subsequent fiscal year"
5920-1000	"; provided, that the department shall submit a semi-annual report to the house and senate committees on ways and means detailing the total number of service coordinators within the department, the number of consumers served by said coordinators, and the amount of time spent per month per consumer"
5920-2020	"; provided further, that the department shall issue a report to the house and senate committees on ways and means on the use of funds for services to Boulet class members no later than February 1, 2005; provided further, that the department shall submit copies of Exhibit F of the quarterly reports required by Section G of the Settlement Agreement to the house and senate committees on ways and means; and provided further, that any names and other identifying personal information contained in the quarterly reports shall be redacted from the reports prior to their submission to the committees on ways and means in order to preserve the confidentiality of the information"
5920-5000	"; provided further, that the department shall report to the house and senate committees on ways and means not later than January 1, 2005, on the use of any funds encumbered or expended from this item including, but not limited to, the number of clients served in each region and the types of services purchased in each region"
6000-0100	"; provided further, that the office shall submit to the joint committee on transportation and the house and senate committees on ways and means monthly reports detailing projects funded through the statewide transportation improvement program including, but not limited to, the location of the projects, the cost of the projects, the date of advertisement of the projects, the commencement date of the projects, the projected completion date of the projects and the source of funds for the projects; provided further, that the office shall also provide the committees with quarterly reports detailing construction and reconstruction projects on town and county ways as described

in paragraph (a) of clause (2) of the first paragraph of section 34 of chapter 90 of the General Laws for which municipalities are projected to seek, have filed claims or have been paid state reimbursement; provided further, that a city or town shall comply with the procedures established by the secretary to obtain the necessary information to produce the reports; provided further, that the reports shall include, but not be limited to, the cost of the projects by city or town, the source of funding of the projects by city or town and the commencement and completion dates of the projects by city or town; provided further, that the secretary of the executive office of transportation, in collaboration with the commissioner of highways, shall file a report each year with the joint committee on transportation and the house and senate committees on ways and means by June 30, 2005 and the last day of each subsequent fiscal year; provided further, that the report shall include spending in the commonwealth through the statewide road and bridge program, the Chapter 90 program, the Small Town Road Assistance Program and all other programs expending funds for road and bridge projects within the commonwealth; provided further, that the report shall detail the location of the project by city or town, a brief project description, the project cost, the expected completion date, the source of funding and any other information deemed necessary"

and

"; provided further, that notwithstanding the provisions of any general or special law to the contrary, the secretary and the department of highways shall proceed on the Route I-95/I-93 (Route 128) Transportation Improvement Project including the Route I-95/I-93 interchange located in the towns of Canton, Dedham and Westwood by using the design/build method of public construction procurement and delivery; provided further, however, that the general contractor and designer selected to perform the project shall be selected through a competitive process; and provided further, that the general contractor and the designer shall be pre-qualified by the department of highways to perform the work required"

6010-0001

"; provided further, that said department shall fully perform storm water management construction for the protection of Webster Lake;

provided further, funds shall be expended to study the flow of traffic along Commonwealth Avenue in Allston-Brighton to determine the impact of regional traffic accessing downtown Boston; provided further, that funds shall be expended to mill and pave Route 20A in the city of Springfield and that said milling and paving shall be completed by June 30, 2005; provided further, that the Secretary is hereby authorized and directed to expend an amount necessary to complete the final phase, within the fiscal year, of the reconstruction and enhancement of that portion of the state road known as "Somerville Avenue" in Somerville; provided further, that funds shall be expended for the design and construction of traffic lights at the intersection of South Street and Salem Street in the Town of Tewksbury and said project shall be completed by June 30, 2005"

and

"; provided further, that funds shall be expended for Berkshire Hills Regional School District for the construction of a traffic signal and necessary road improvements at the intersection of Monument Valley Road and Route 7 in the Town of Great Barrington; provided further, that funds shall be expended for traffic signalization on Route 12 in the city of Worcester; provided further, that funds shall be expended to fund the construction of improvements to route 126 in the town of Medway; provided further, that said department shall conduct a noise reduction study along Route 3 South in Kingston no later than December 31, 2004 and shall submit its finding to the joint committee on transportation and the house and senate committees on ways and means no later than June 30, 2005"

and

"; provided further that said department is directed to close route 60 between state highway route 2 in the town of Arlington and Winthrop Circle, in the city of Medford to commercial traffic between the hours of 12 P.M. and 6 A.M effective September 1, 2004, unless the said department declares it a public necessity that said roadway should be open to commercial traffic; provided that funds shall be expended to conduct a noise study along Route 290 in the town of Northborough; provided further, that said department shall expend funds for the purpose of repair and maintenance of the Mount Vernon Street Bridge on Washington Street in the town of

Winchester; provided further, that said department shall construct sound barriers in the towns of Billerica and Lexington as follows: in the town of Billerica on the northerly side of Route 3 from a point 500 yards south of the Eliot Street bridge and extending 700 yards north of the Eliot Street bridge on the northerly side of Route 3; provided; further, that said barriers in the town of Lexington shall be constructed from the off-ramp from Route 3 accessing Route 128 south and extending to the Grove Street Bridge; provided further, that the department shall include the proposed intersection improvements of the Route 1A/Main Street-Winter Street-Jean Road intersection in the town of Walpole on the Transportation Improvement Program project list covering fiscal years 2003-2007 and shall commence said improvements during fiscal year 2005; provided, further, that funds shall be expended for the construction of sound barriers in the town of Chelmsford as follows: designated Area Number 21, Waterford Place in Chelmsford; designated Area 1, Ledgewood/Lido Land in Bedford, as defined by HMMH Report Number 298280 as prepared for said document; and provided further, that the Massachusetts Highway Department allow the town of Arlington access to the land between route 2 and Spy Pond for the purposes of establishing a pumping station at Spy Pond"

7002-0101

"; provided further, that the application shall be accompanied by a fee of \$35 and paid by the apprentice or the program sponsor, together with photographic prints as required by the deputy director; provided further, that the first \$125,000 of the fees collected by the division for this identification card program shall be deposited into the General Fund; provided further, that the second \$125,000 of said fees shall be deposited into the special trust account created to fund and maintain the identification card program pursuant to chapter 357 of the acts of 2002 and the remainder of all fees collected shall be deposited into the General Fund"

8900-0010

"; provided, that the commissioner of correction shall submit quarterly financial reports detailing revenues generated and expended, to the house and senate committees on ways and means"

---

**Chap. 149****SECTION 2B** *Items disapproved by striking the wording:*

Item	<i>Wording Stricken</i>
1102-3224	"; provided, that the department of capital assets management and maintenance shall submit to the house and senate committees on ways and means or before the first of each month beginning August 1, 2004 a monthly report on the agencies that currently, or will during fiscal year 2005, occupy space in the Saltonstall building, their rental costs, utility costs, parking space allocation, floor space, lease dates, all services included in the lease and all services that the agencies are obligated to fund beyond the lease payments; provided further, that the report shall include both estimated payments and prior expenditures; provided further, that notwithstanding any general or special law to the contrary, the department shall also file a report to the house and senate committees on ways and means not later than December 15, 2004 regarding all costs related to the purchase and lease of furniture or any other reasonable item that could be construed as furniture including but not limited to: desks, bookcases, file cabinets, chairs, workstations, cubicles, tables, microwaves, coffee makers, water bubblers, coat racks, trash bins, sofas, desk extensions, storage cabinets and refrigerators; and provided further, that the report shall list all costs associated with the leases and purchases of the items and others not included but would be considered like items for all agencies that were required to move out of the Saltonstall building before construction and all costs associated with the lease and purchases of said items for all agencies moving into the building in fiscal years 2004, 2005 and 2006"
1750-0101	"; provided, that the human resources division may collect a \$75 administrative fee from vendors who submit proposals in response to requests for proposals for the commonwealth master service agreement for specialized training and consultation services at the time of proposal submission; provided further, that any vendor who fails to deliver the appropriate administrative fee with its submission shall be deemed nonresponsive and its proposal shall not be considered for contract award"
1750-0105	"; provided further, that the secretary shall file quarterly reports with the house and senate committees on ways and means detailing these items, including federal grants and trust accounts that have not yet paid their charges, and the reasons why, within 3 weeks of the close

Item	Wording Stricken
	of each quarter"
	and
	"; provided further, that said secretary shall provide projected costs of workers' compensation costs incurred by agencies in fiscal year 2005 to the house and senate committees on ways and means no later than February 28, 2005"

*Pursuant to Article 56 as amended by Article 90, Section 3, of the Amendments to the Constitution, the Governor sent a separate letter to the Senate and the House of Representatives setting forth recommended amendments to Sections 15, 28, 35, 56, 68, 69, 69A, 104, 106, 113, 117, 121, 126, 208, 209, 239, 251, 264, 268, 269, 321, 324, 339, 355, 368, 372, 374, 381, and 424.*

*The remainder of the bill was approved by the Governor on June 25, 2004 at two o'clock and thirty-five minutes, P.M.*

*The objections of the Governor notwithstanding and in the manner prescribed by the Constitution, on July 20, 2004 the House of Representatives and on July 21, 2004 the Senate passed the following Items:*

**SECTION 2.** Items: 0330-0300, 0330-3200, 0331-3404, 1231-1000, 1599-6901, 7061-0011. **SECTION: 320.**

*The objections of the Governor notwithstanding and in the manner prescribed by the Constitution, on July 21, 2004 the House of Representatives and on July 22, 2004 the Senate passed the following Items:*

**SECTION 2.** Items: 0335-0001, 0610-0140, 1102-3233, 4000-0500, 7007-1200, 7113-0105.

**SECTIONS: 94, 228, 229, 255, 256, 305, 371, and 401.**

*The objections of the Governor notwithstanding and in the manner prescribed by the Constitution, on July 22, 2004 the House of Representatives and the Senate in concurrence passed the following Items:*

**SECTION 2.** Items: 1201-0130, 2800-9004, 4000-0112, 4000-0300, 4000-0550, 7114-0105, 8000-0000.

**SECTIONS: 167, 168, 171, 172, 244, 303, and 353.**

*The objections of the Governor notwithstanding and in the manner prescribed by the Constitution, on July 21, 2004 the House of Representatives and on July 22, 2004 the Senate passed the following Item:*

**SECTION 2:** Item: 0610-0050

*The objections of the Governor notwithstanding and in the manner prescribed by the Constitution, on July 22, 2004 the House of Representatives and the Senate in concurrence passed the following Items:*

**SECTION 2.** Items: 0321-2205, 1000-0001, 1102-3299, 1599-3857, 1750-0111, 2000-0100, 2000-9912, 2200-0100, 2820-0100, 4000-0115, 6000-0100, 6010-0001, 7003-0702, 7007-0500, 7116-0105, and 8100-0000.

**SECTIONS: 20, 60, 61, 62, 64, 82, 102, 103, 145, 162, 178, 181, 206, 221, 271, 322, 316, and 375.**

*The objections of the Governor notwithstanding and in the manner prescribed by the Constitution, on July 22, 2004 the House of Representatives and on July 23, 2004 the Senate passed the following Items:*

**SECTION 2.** Item: 1599-1971.

**SECTION 286.**

*The objections of the Governor notwithstanding and in the manner prescribed by the Constitution, on July 22, 2004 the House of Representatives and on July 30, 2004 the Senate passed the following Items:*

**SECTION 2.** Item: 7007-0515.

**SECTIONS: 197, 294, 304, 306, 329, 349, 363, 394, and 410.**

*The objections of the Governor notwithstanding and in the manner prescribed by the Constitution, on July 30, 2004 the House of Representatives and the Senate in concurrence passed the following Items:*

**SECTION 2.** Items: 1232-0200, 1599-7092, 2800-0100, 4513-1026, 4590-0300, 6005-0015, 7007-0900, 7007-1300, 8900-0001, and 8910-0000.

**SECTIONS: 45, 58, 238, and 257**

*The objections of the Governor notwithstanding and in the manner prescribed by the Constitution, on July 21, 2004 the House of Representatives and on July 30, 2004 the Senate passed the following Items:*

**SECTION 2.** Item: 0333-1313.

**SECTION 299.**

*The objections of the Governor notwithstanding and in the manner prescribed by the Constitution, on July 30, 2004 the House of Representatives and the Senate in concurrence passed the following Items:*

**SECTION 2.** Items: 0640-0013, 1102-3206, 2330-0100, 4100-0060, 4510-0110, 4510-0710, 4510-0790, 4513-1020, 4590-0912, 8400-0001, 8910-0102, 8910-0105, 8910-0107, 8910-0108, 8910-0110, 8910-0145, and 8910-0619.

**SECTION 340.**

*The objections of the Governor notwithstanding and in the manner prescribed by the Constitution, on July 30, 2004 the House of Representatives and on July 31, 2004 the Senate passed the following Items:*

**SECTION 2.** Item: 9110-1460.

**SECTION 340.**

---

## **Chapter 150. AN ACT FURTHER REGULATING CERTAIN WEAPONS.**

*Be it enacted, etc., as follows:*

**SECTION 1.** Section 121 of chapter 140 of the General Laws, as appearing in the 2002 Official Edition, is hereby amended by inserting after the figure "(30)", in line 11, the following words:- as appearing in such section on September 13, 1994.

**SECTION 2.** Said section 121 of said chapter 140, as so appearing, is hereby further amended by inserting after the figure "922", in line 21, the following words:- as appearing in such appendix on September 13, 1994.

**SECTION 3.** Said section 121 of said chapter 140, as so appearing, is hereby further amended by inserting after the figure "(31)", in line 58, the following words:- as appearing in such section on September 13, 1994.

**SECTION 4.** Section 129B of said chapter 140, as so appearing, is hereby amended by inserting after the word "board", in line 148, the following words:- in a size and shape equivalent to that of a license to operate motor vehicles issued by the registry of motor vehicles pursuant to section 8 of chapter 90 .

**SECTION 5.** The first sentence of clause (9) of said section 129B of said chapter 140, as most recently amended by section 34 of chapter 140 of the acts of 2003, is hereby amended by striking out the figure "4" and inserting in place thereof the following figure:- 6.

**SECTION 6.** Said first sentence of said clause (9) of said section 129B of said chapter 140, as so appearing, is hereby amended by inserting after the word "issue" the following words:- , except that if the cardholder applied for renewal before the card expired, the card shall remain valid for a period of 90 days after the stated expiration date on the card, unless the application for renewal is denied.

**SECTION 7.** Clause (12) of said section 129B of said chapter 140, as so appearing, is hereby amended by inserting after the word "expired", in line 201 the following words:- , meaning after 90 days beyond the stated expiration date on the card.

**SECTION 8.** Said clause (12) of said section 129B of said chapter 140, as so appearing, is hereby further amended by striking out, in line 215, the words "expired on" and inserting in place thereof the following words:- expired, meaning after 90 days beyond the stated expiration date on the card, or.

**SECTION 9.** Said chapter 140 is hereby further amended by inserting after section 130 the following section:-

Section 130B. (a) There shall be a firearm licensing review board, established within the criminal history systems board, in this section called the board, comprised of 7 members, 1 of whom shall be a member of the criminal history systems board appointed by the executive director and who shall be the chair, 1 of whom shall be the secretary of public safety or his designee, 1 of whom shall be the colonel of state police or his designee, 1 of whom shall be appointed by the Massachusetts Chiefs of Police Association, 1 of whom shall

be the attorney general or his designee, 1 whom shall be an attorney with litigation experience in firearm licensing cases and appointed by the governor from a list of qualified persons submitted to the governor by the Massachusetts Bar Association, and 1 of whom shall be a retired member of the judiciary and appointed by the governor.

(b) An applicant for a firearm identification card or license to carry who has been convicted of or adjudicated a delinquent child or youthful offender by reason of an offense or offenses punishable by 2 ½ years imprisonment or less when committed under the laws of the commonwealth which was not: (a) an assault or battery on a family member or household member, as defined by section 1 of chapter 209A, except that the determination to be made under clause (e) of said section 1 of said chapter 209A shall be made by the review board, may, after the passage of 5 years from conviction, adjudication as a youthful offender or a delinquent child or release from confinement, commitment, probation or parole supervision for such conviction or adjudication, whichever is last occurring, file a petition for review of eligibility with the firearm licensing review board.

(c) The petitioner shall provide to the board a copy of a completed firearm identification card or license to carry application, which application shall have previously been submitted to the licensing authority or be submitted to the licensing authority contemporaneously with the petition filed with the board. The petitioner shall have the burden to prove his suitability to receive a firearm identification card or a license to carry by clear and convincing evidence. The board shall set a reasonable filing fee to file the petition.

(d) If the board determines, by 2/3 rds vote, that: (i) the sole disqualifier for the petitioner is no conviction or adjudication as a youthful offender or a delinquent child for an offense or offenses punishable by 2 ½ years imprisonment or less when committed under the laws of the commonwealth, arising out of a single incident and which does not otherwise disqualify the petitioner under subclauses (a), (d) or (e) of clause (i) or clauses (ii) to (ix), inclusive, of paragraph (1) of section 129B or subclauses (a), (d) or (e) of clause (i) or clauses (ii) to (vii), inclusive, of paragraph (d) of section 131, and which was not an assault or battery on a family member or household members, as defined by section 1 of chapter 209A, except that the determination to be made under clause (e) of said section 1 of said chapter 209A shall be made by the board; (ii) 5 years has passed since such conviction or adjudication or release from confinement, commitment, probation or parole supervision for such conviction or adjudication, whichever is last occurring; and (iii) by clear and convincing evidence, that the petitioner is a suitable person to be a firearm identification card or license to carry holder, the board shall determine that the petitioner's right or ability to possess a firearm is fully restored in the commonwealth with respect to such conviction or adjudication and that such conviction or adjudication shall not prohibit such petitioner from applying to a licensing authority for a firearm identification card or license to carry. The board shall make a determination on a petition within 60 days after receipt of the petition.

(e) The board shall hold hearings at such times and places as in its discretion it reasonably determines to be required, but not less than once every 90 days, and shall give reasonable notice of the time and place of the hearing to the petitioner. The board shall have

the power to compel attendance of witnesses at hearings.

(f) All hearings shall be conducted in an informal manner, but otherwise according to the rules of evidence, and all witnesses shall be sworn by the chair. If requested by the petitioner and payment for stenographic services, as determined by the board, accompanies such request, the board shall cause a verbatim transcript of the hearing to be made. The board's decisions and findings of facts therefore shall be communicated in writing to the petitioner and to the licensing authority to whom the petitioner has applied or intends to apply within 20 days of rendering a decision.

(g) Members of the board shall serve without compensation, but shall be entitled to reasonable subsistence and travel allowances in the performance of their duties.

**SECTION 10.** Section 131 of said chapter 140, as so appearing, is hereby amended by inserting after the word "board", in line 210, the following words:- in a size and shape equivalent to that of a license to operate motor vehicles issued by the registry of motor vehicles pursuant to section 8 of chapter 90 .

**SECTION 11.** The first paragraph of subsection (i) of said section 131 of said chapter 140, as most recently amended by section 103 of chapter 46 of the acts of 2003, is hereby further amended by striking out the first 2 sentences and inserting in place thereof the following 2 sentences:- A license to carry or possess firearms shall be valid, unless revoked or suspended, for a period of not more than 6 years from the date of issue and shall expire on the anniversary of the licensee's date of birth occurring not less than 5 years but not more than 6 years from the date of issue, except that if the licensee applied for renewal before the license expired, the license shall remain valid for a period of 90 days beyond the stated expiration date on the license, unless the application for renewal is denied. Any renewal thereof shall expire on the anniversary of the licensee's date of birth occurring not less than 5 years but not more than 6 years from the effective date of such license.

**SECTION 12.** The fifth sentence of subsection (i) of said section 131 of said chapter 140, inserted by section 429 of chapter 26 of the acts of 2003, is hereby amended by inserting after the word "commonwealth" the following words:- and not less than \$50,000 of the funds deposited into the General Fund shall be allocated to the Firearm Licensing Review Board, established in section 130B, for its operations and that any funds not expended by said board for its operations shall revert back to the General Fund.

**SECTION 13.** Said first paragraph of said subsection (i) of said section 131 of said chapter 140, as most recently amended by section 103 of chapter 46 of the acts of 2003, is hereby further amended by adding the following sentence:- For the purposes of section 10 of chapter 269 , an expired license to carry firearms shall be deemed to be valid for a period not to exceed 90 days beyond the stated date of expiration, unless such license to carry firearms has been revoked.

**SECTION 14.** Said section 131 of said chapter 140, as appearing in the 2002 Official Edition, is hereby amended by inserting after the figure "70", in line 243, the following words:- and any law enforcement officer applying for a license to carry firearms

---

**Chap. 150**

through his employing agency.

**SECTION 15.** Said section 131 of said chapter 140, as so appearing, is hereby further amended by inserting after the word "expired", in lines 280 and 293, the following words:- , meaning after 90 days beyond the stated expiration date on the license.

**SECTION 16.** Subsection (m) of said section 131 of said chapter 140, as so appearing, is hereby amended by inserting after the second sentence the following sentence:- The officer shall, at the time of confiscation, provide to the person whose firearm, rifle or shotgun has been confiscated, a written inventory and receipt for all firearms, rifles or shotguns confiscated and the officer and his employer shall exercise due care in the handling, holding and storage of these items.

**SECTION 17.** Section 18C of chapter 265 of the General Laws, as so appearing, is hereby amended by striking out the second, third, fourth and fifth sentences.

*Emergency Letter: September 13, 2004 @ 4:57 P.M.*

Approved July 1, 2004.

**Chapter 151. AN ACT REQUIRING LATE COUNTING OF CERTAIN OVERSEAS  
ABSENTEE BALLOTS IN CITY ELECTIONS.**

*Be it enacted, etc., as follows:*

**SECTION 1.** Section 95 of chapter 54 of the General Laws, as appearing in the 2002 Official Edition, is hereby amended by inserting after the word "state", in line 25, the following words:- or city final.

**SECTION 2.** Section 99 of said chapter 54, as so appearing, is hereby amended by striking out, in line 6, the words "only a state" and inserting in place thereof the following words:- a state or city final.

Approved July 1, 2004.

**Chapter 152. AN ACT AUTHORIZING THE CITY OF LOWELL TO PAY AN  
UNPAID BILL.**

*Be it enacted, etc., as follows:*

**SECTION 1.** The city of Lowell may appropriate, and after such appropriation, the treasurer of the city may pay to Middlesex community college an unpaid bill incurred by the city totaling \$29,553.10, the bill being legally unenforceable against said city in accordance with section 7-96 of the Lowell city code; but the money so appropriated to pay the bill shall be paid from funds of the greater Lowell regional employment board.

---

**Chap. 152**

**SECTION 2.** No bill shall be approved by the auditor of the city of Lowell for payment or paid by the treasurer thereof under the authority of this act unless and until certificates have been signed and filed with the auditor, stating under the penalties of perjury that the services and supplies for which the bill has been submitted were ordered by an official or an employee or agent of the city and that such services and supplies were rendered to the city or official or agent.

**SECTION 3.** Any person who knowingly files a certificate required by section 2 which is false, and who thereby receives payment for services which were not rendered to the city of Lowell, shall be punished by imprisonment for not more than 1 year or by a fine of not more than \$300, or both.

**SECTION 4.** This act shall take effect upon its passage.

Approved July 1, 2004.

**Chapter 153. AN ACT AUTHORIZING PAYROLL DEDUCTIONS FOR CERTAIN CONTRIBUTIONS TO THE STATE POLICE MUSEUM FUND.**

*Be it enacted, etc., as follows:*

Chapter 180 of the General Laws is hereby amended by inserting after section 17L the following section:-

Section 17M. A deduction on a payroll schedule may be made from the salary of an employee of the department of state police in the amount of \$3 per pay period for the payment of a contribution to Massachusetts State Police Museum and Learning Center, Inc. A deduction under this section shall not be used in whole or in part for a political purpose. Authorization for the deduction shall be made by the employee in writing to the officer or head of the department and withdrawal of the authorization shall be made by a 60 day written notice to the officer or head of the department. The state treasurer shall deduct the contribution from the salary of the employee and transmit the sum to the treasurer of the Massachusetts State Police Museum and Learning Center, Inc. The state treasurer may require that the treasurer of the Massachusetts State Police Museum and Learning Center, Inc. give a bond, in a form approved by the commissioner of revenue, for the faithful performance of his duties in a sum and with surety satisfactory to the state treasurer.

Approved July 1, 2004.

**Chapter 154. AN ACT RELATIVE TO CERTAIN CAPITAL SPENDING AUTHORIZATIONS.**

*Whereas*, The deferred operation of this act would tend to defeat its purpose, which

is to provide for improvements and repairs of certain real property assets of the commonwealth, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

*Be it enacted, etc., as follows:*

To provide for the continued availability of certain bond-funded spending authorizations that otherwise would expire on June 30, 2004, the balances of the following appropriation items and any allocations thereof are hereby extended through June 30, 2005, for the purposes of and subject to the conditions stated for these items in the original authorizations and any amendments to such authorizations. Appropriation

0330-0951	1102-2992	1102-8969	2300-7967	2840-7875	2895-8998	5095-8872
0330-2204	1102-4940	1102-9897	2300-8961	2840-7958	2895-9968	5500-8300
0330-2206	1102-4994	1102-9960	2300-8970	2840-8885	2896-8967	5500-8400
0330-2208	1102-5996	1102-9980	2320-8960	2840-8886	3722-7870	5500-8500
0330-2209	1102-6896	1102-9981	2320-8978	2840-8889	3722-7871	5500-8893
0330-8890	1102-7881	1599-3914	2420-1420	2840-8950	3722-8865	5500-9000
0330-8891	1102-7886	1599-4994	2420-8936	2840-8952	3722-8871	5500-9100
0330-8968	1102-7887	1599-8000	2440-8963	2840-8956	3722-8872	5500-9220
0332-5961	1102-7888	2000-1962	2490-0014	2840-8963	3722-8873	5500-9400
0332-5962	1102-7890	2000-1997	2800-0950	2840-8965	3722-8875	5800-8100
0332-8811	1102-7891	2000-6966	2800-0951	2840-9101	3722-8891	5800-8120
0431-8833	1102-7893	2000-6967	2800-0952	2840-9104	3722-8892	5800-8300
0511-0251	1102-7894	2000-6969	2800-1122	2840-9800	3722-8894	5800-8810
0526-0103	1102-7896	2000-7968	2800-1961	2840-9990	3722-8896	5800-9000
0526-8998	1102-7897	2000-9963	2810-7872	2843-7967	3722-8898	6000-7967
0526-9961	1102-7930	2100-1961	2810-8802	2850-6966	4000-8000	6000-9101
1100-1993	1102-7960	2120-8881	2820-1420	2850-6967	4000-8100	6001-8800
1100-7981	1102-7967	2200-8969	2820-6996	2850-9951	4000-8200	6001-8835
1100-7982	1102-7977	2240-8820	2820-7881	2850-9963	4010-8831	6001-9510
1100-7985	1102-7979	2240-9101	2820-7882	2850-9969	4180-0013	6001-9605
1100-8880	1102-8791	2240-9105	2820-7961	2890-0010	4180-7890	6001-9610
1100-9101	1102-8819	2240-9106	2820-8861	2890-0012	4180-7891	6001-9645
1100-9520	1102-8869	2240-9107	2820-8881	2890-0013	4190-7883	6001-9655
1102-0890	1102-8872	2250-8820	2820-8882	2890-0014	4200-8968	6001-9657
1102-0961	1102-8880	2250-8822	2820-8883	2890-0015	4238-8871	6006-9500
1102-0964	1102-8883	2250-8881	2820-8936	2890-0016	4536-7890	6006-9680
1102-1960	1102-8888	2250-9959	2820-8951	2890-0017	4537-7891	6010-3950
1102-1991	1102-8890	2260-9882	2820-8960	2890-0019	5011-8841	6033-5965
1102-1992	1102-8894	2260-9965	2820-8961	2895-8968	5011-8842	6033-8828
1102-2204	1102-8968	2300-0961	2840-1420	2895-8969	5095-8870	6033-8868

---

## Chap. 154

6033-8878	6033-9604	6033-9703	6036-9616	7109-0962	7310-0960	7510-7961
6033-9113	6033-9615	6033-9709	6036-9617	7109-7893	7410-7960	7511-7960
6033-9128	6033-9616	6033-9716	6036-9669	7110-0960	7411-7960	7512-7960
6033-9198	6033-9617	6033-9717	6036-9698	7112-0960	7452-7960	7512-7961
6033-9500	6033-9618	6033-9718	6036-9716	7112-0961	7452-7961	7514-7960
6033-9501	6033-9620	6033-9719	6037-0019	7113-0960	7452-7963	7514-7961
6033-9515	6033-9629	6033-9720	6037-9916	7114-0960	7452-7964	7516-7960
6033-9516	6033-9630	6033-9769	6037-9917	7114-0961	7452-7965	8000-0019
6033-9524	6033-9640	6033-9798	7000-1991	7114-8998	7502-0960	8000-7950
6033-9525	6033-9641	6033-9799	7000-3993	7115-0960	7503-7892	8100-8958
6033-9526	6033-9642	6034-9605	7000-9952	7115-0961	7503-7960	8195-8968
6033-9529	6033-9643	6034-9610	7000-9995	7116-0960	7504-7960	8199-7966
6033-9530	6033-9644	6034-9701	7004-6666	7117-0960	7504-7961	8199-7967
6033-9555	6033-9645	6035-9513	7004-8984	7118-0960	7505-7960	8200-8842
6033-9559	6033-9646	6035-9515	7004-8985	7118-0961	7506-7961	8900-1981
6033-9560	6033-9660	6035-9516	7004-8986	7118-7962	7506-7962	8900-7967
6033-9581	6033-9662	6035-9517	7004-8987	7220-0960	7507-7960	8995-8968
6033-9592	6033-9663	6035-9559	7004-9980	7220-0961	7508-0960	9300-3905
6033-9595	6033-9669	6035-9716	7066-0013	7220-7893	7509-7960	9300-3909
6033-9603	6033-9702	6035-9717	7109-0961	7220-7894	7510-7960	

Approved July 1, 2004.

## Chapter 155. AN ACT RELATIVE TO SPECIAL VETERANS PLATES.

*Be it enacted, etc., as follows:*

**SECTION 1.** Section 2 of chapter 90 of the General Laws, as appearing in the 2002 Official Edition, is hereby amended by inserting after the word "hands", in line 197, the following words:- , the registrar may furnish plates displaying the "International Symbol of Access" and the words "Disabled Veteran" for a pleasure passenger vehicle or a pick-up truck owned or leased by and used by a veteran who, according to the records of the United States Veterans' Administration, by reason of service in the armed forces of the United States has suffered loss or permanent loss of use of one or both feet; or loss or permanent loss of use of one or both hands; or permanent impairment of vision of both eyes of the following status: central visual acuity of 20/200 or less in the better eye, with corrective glasses, or central visual acuity of more than 20/200 if there is a field defect in which the peripheral field has contracted to such an extent that the widest diameter of visual field subtends an angular distance no greater than 20 degrees in the better eye, or any other disability or handicap.

**SECTION 2.** Said section 2 of said chapter 90, as so appearing, is hereby further amended by striking out, in line 396, the words "or Bronze Star" and inserting in place thereof the following words:- Star, Bronze Star or Distinguished Flying Cross.

**SECTION 3.** Said section 2 of said chapter 90, as so appearing, is hereby further amended by striking out, in lines 401 and 402, and in line 403, the words "or Bronze star" and inserting in place thereof, in each instance, the following words:- Star, Bronze Star or Distinguished Flying Cross.

**SECTION 4.** Said section 2 of said chapter 90, as so appearing, is hereby further amended by inserting after the eighteenth paragraph the following paragraph:-

The registrar shall furnish without charge to owners of private passenger motor vehicles, who are parents, children or spouses of members of the military who were killed in action upon presentation of satisfactory evidence of such status as determined by the registrar, distinctive registration plates that read "Gold Star Family" for one private passenger motor vehicle owned and principally used by such persons.

Approved July 1, 2004.

**Chapter 156. AN ACT RELATIVE TO PART-TIME ELECTED OFFICIALS OF THE TOWN OF SWANSEA.**

*Be it enacted, etc., as follows:*

Notwithstanding chapter 32B of the General Laws or any other general or special law to the contrary, part-time elected officials of the town of Swansea who receive a stipend shall not be eligible for participation in the town's contributory health and life insurance plan. Part-time elected officials elected prior to April 2004 who currently participate in the plan shall be eligible to continue participation until the end of their current terms. Part-time elected officials who receive a stipend and who elect to pay 100 per cent of the cost of such participation plus any administrative costs that may be assessed by the board of selectmen may be eligible to participate in the plan.

Approved July 1, 2004.

**Chapter 157. AN ACT AUTHORIZING THE TOWN OF NORTHBRIDGE TO GRANT AN ADDITIONAL LICENSE FOR THE SALE OF ALL ALCOHOLIC BEVERAGES NOT TO BE DRUNK ON THE PREMISES.**

*Be it enacted, etc., as follows:*

**SECTION 1.** Notwithstanding section 17 of chapter 138 of the General Laws, the licensing authority of the town of Northbridge may grant 1 additional license for the sale of all alcoholic beverages not to be drunk on the premises under section 15 of said chapter 138 to Cat-Ray, Inc. d/b/a The Trading Post. The license shall be subject to all of said chapter 138 except said section 17.

**SECTION 2.** This act shall take effect upon its passage.

Approved July 1, 2004.

**Chapter 158. AN ACT AUTHORIZING THE DIVISION OF CAPITAL ASSET MANAGEMENT AND MAINTENANCE TO CONVEY CERTAIN LAND TO THE TOWN OF WEBSTER.**

*Whereas*, The deferred operation of this act would tend to defeat its purpose, which is to authorize forthwith the conveyance of certain land to the town of Webster, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

*Be it enacted, etc., as follows:*

**SECTION 1.** The commissioner of the division of capital asset management and maintenance may convey to the town of Webster, for nominal consideration, notwithstanding sections 40F to 40J, inclusive, of chapter 7 of the General Laws, or any other general or special law or rule or regulation to the contrary, by deed, a parcel of state owned land located in the town, formerly under the care and control of the armory commission, for use by the town as a community youth facility. The parcel, as shown on a deed dated November 26, 1952, and recorded on June 19, 1952 in the Worcester county registry of deeds, Book 3425, Page 557, was conveyed from inhabitants of the town of Webster to the commonwealth.

**SECTION 2.** The town of Webster shall pay for all costs of the appraisal, survey and deed preparation for the conveyance of the property authorized by this act, as deemed necessary by the commissioner of the division of capital asset management and maintenance.

**SECTION 3.** If the property ceases to be used at any time for the purpose described in section 1, or is used for any purpose other than the purpose stated therein, the property, upon notice by the commissioner of the division of capital asset management and maintenance, shall revert to the care and control of the commonwealth and any further disposition of the property shall be subject to sections 40E to 40J, inclusive, of chapter 7 of the General Laws, and shall require the prior approval of the general court.

Approved July 2, 2004.

---

**Chapter 159. AN ACT AUTHORIZING THE DEPARTMENT OF HIGHWAYS TO ACQUIRE CERTAIN PARCELS OF LAND IN THE TOWN OF BOURNE.**

*Be it enacted, etc., as follows:*

**SECTION 1.** The department of highways may acquire by eminent domain, purchase or otherwise certain parcels of land, herein described in section 2, from the town of Bourne. The parcels shall be diverted from their present uses as open space and as a fire station to a highway use.

**SECTION 2.** The description of the above referenced parcels is as follows:

Parcel U: A parcel of land dedicated to an open space use supposed to be owned by the town of Bourne, adjoining the westerly sideline of the 1936 Layout Alteration of the Scenic Highway (Route 6) (L.O. No. 3180) and bounded as follows: Beginning on the westerly, line of said Route 6 layout at the southeasterly corner of the parcel hereinafter described; thence northeasterly along said layout a curve to the left having a radius of about 1,031.1 meters (3,383 feet) a distance of about 88.8 meters (291 feet); thence northeasterly a distance of about 79.7 meters (261 feet); thence along a curve to the right having a radius of about 858.6 meters (2,817 feet), a distance of about 461.2 meters (1,513 feet); thence leaving said Route 6 layout and continuing northwesterly along land now or formerly of Joseph F. Sorenti, Louis D. Papi and, Judith A. Papi, Trustees of Papi Family Nominee Trust, a distance of about 40.4 meters (133 feet) to a point; thence southwesterly along a curve to the left having a radius of about 970.1 meters (3,183 feet, a distance of about 34.8 meters (114 feet); thence southwesterly a distance of about 60.0 meters (197 feet); thence southwesterly a distance of about 77.8 meters (255 feet); thence southwesterly a distance of about 64.1 meters (210 feet) to a point on a curve to the left having a radius of about 887.4 meters (2,911 feet); thence along said curve to the left a distance of about 218.7 meters (718 feet); thence southwesterly a distance of about 79.7 meters (261 feet) to a point on a curve to the right having a radius of about 1,027.5 meters (3,371 feet) a distance about 88.4 meters (290 feet) to a point on the westerly sideline of land now or formerly of North Sagamore Water District; thence continuing southeasterly along said land of North Sagamore Water District a distance of about 3.6 meters (12 feet) to the point of beginning. Said parcel containing about 5,332.8 square meters (57,400 square feet).

Parcel TE-1: A parcel of land dedicated to an open space use supposed to be owned by the town of Bourne, adjoining the easterly line of the aforementioned Parcel U and bounded as follows: Beginning at a point about 3.6 meters (12 feet) from the westerly line of said Route 6 layout at the southeasterly corner of the parcel hereinafter described; thence northeasterly along said layout a curve to the left having a radius of about 1,027.5 meters (3,371 feet) a distance of about 88.4 meters (290 feet); thence northeasterly a distance of about 79.7 meters (261 feet); thence along a curve to the right having a radius of about 887.4 meters (2,911 feet), a distance of about 218.7 meters (718 feet); thence northwesterly a distance of about 64.1 meters (210 feet); thence northwesterly a distance of about 77.8 meters

(255 feet); thence northwesterly a distance of about 60.0 meters, (197 feet); thence northwesterly along a curve to the right having a radius of about 970.1 meters (3,183 feet), a distance of about 34.8 meters (114 feet) to a point; thence leaving said Parcel U layout and continuing northwesterly along land now or formerly of Joseph F. Sorenti, Louis D. Papi and Judith A. Papi, Trustees of Papi Family Nominee Trust, a distance of about 8.7 meters (29 feet) to a point; thence southwesterly a distance of about 84.3 meters (277 feet); thence southwesterly a distance of about 39.0 meters (128 feet); thence southwesterly a distance of about 59.7 meters (196 feet); thence southwesterly a distance of about 43.2 meters (142 feet); thence southwesterly a distance of about 96.6 meters (317 feet); thence southwesterly a distance of about 84.4 meters (277 feet); thence southwesterly a distance of about 230.5 meters (756 feet) to a point on the westerly sideline of land now or formerly of North Sagamore Water District; thence continuing southeasterly along said land of North Sagamore Water District a distance of about 2.9 meters (10 feet) to the point of beginning. Said parcel containing about 5,046.3 square meters (54,317 square feet).

Parcel V: A parcel of land supposed to be owned by the town of Bourne dedicated for use as a fire station adjoining the westerly side of the Massachusetts State Highway, Sagamore Rotary, and bounded as follows: beginning at a point on the westerly line of Sagamore Rotary; thence southwesterly a distance of approximately 200 feet; thence northwesterly a distance of approximately 197 feet; thence northeasterly a distance of approximately 200 feet; thence continuing along the Massachusetts State Highway on a curve to the right of radius 150 feet approximately 161 feet; continuing along the Massachusetts State Highway a distance of approximately 47 feet to the point of beginning. The parcel containing about 43,100 square feet.

The parcels of land, hereinbefore described, are shown on a plan entitled, "Bourne-Sagamore Rotary Preferred Alternative Working Plan #4, dated April 24, 2003. The plan shall be kept on file with the chief engineer of the department of highways.

**SECTION 3.** The department of highways may expend funds for the functional replacement of the Bourne fire station located on parcel V described in section 2. The costs may include the cost of constructing a fire station facility that is functionally equivalent to the existing facility, including architectural and engineering costs and in compliance with existing code requirements and building laws of the town and the commonwealth. The replacement fire station facility may be constructed on a parcel of land owned by the commonwealth and under the control of the department of highways. The department of highways may acquire by eminent domain, purchase or otherwise, any land in the town of Bourne, which may be needed for the replacement fire station facility. Upon completion of the replacement fire station facility, possession of the facility shall be turned over to the town of Bourne. The commissioner of capital asset management and maintenance shall transfer the title to the facility and the real estate on which it is located to the town of Bourne.

**SECTION 4.** In connection with the Sagamore Rotary Project, the department of highways may construct a highway maintenance depot and a visitor's information center in the town of Bourne. Notwithstanding any general or special law to the contrary, the control

and supervision of the construction of the highway maintenance depot, the visitors' information center and the replacement fire station facility referred to in section 3 shall be under the exclusive control and supervision of the department of highways.

**SECTION 5.** The department of highways shall take or acquire suitable lands for open space purposes to ensure that no net loss of acreage dedicated to open space occurs in the town of Bourne as result of the open space acquisitions from the town of Bourne authorized under this act. The department may enter into an agreement with the town of Bourne or any other state agency under which: (1) the department shall fund and take or acquire the lands under this section; (2) the town or other state agency shall accept title to the lands; and (3) land conveyed to the town or state agency is subject to an easement through conservation restrictions under sections 31, 32 and 33 of chapter 184 of the General Laws, to ensure the protection of open space.

**SECTION 6.** The Massachusetts Bay Transportation Authority and all other agencies of the commonwealth shall commence and complete all federal, state, and local permitting necessary for the extension of commuter rail services to the cities of New Bedford and Fall River and shall expend any and all necessary funds in the furtherance of this purpose. The New Bedford Fall River Commuter Rail Extension project shall be eligible and shall be a priority project for participation in any wetland banking program created by the commonwealth in order for the project to satisfy all potential and partial mitigation requirements. The secretary of the executive office of transportation and construction shall commence and complete all negotiations for right-of-way interests with the CSX Corporation for the extension of commuter rail services to the cities of New Bedford and Fall River. The secretary of the executive office of transportation and construction shall make all efforts necessary to renew, reopen and complete negotiations with the Southeastern Regional Planning and Economic Development District for the extension of commuter rail services to the cities of New Bedford and Fall River.

Approved July 2, 2004.

**Chapter 160. AN ACT RELATIVE TO A PENSION FOR A SURVIVING SPOUSE  
IN THE CITY OF SPRINGFIELD.**

*Be it enacted, etc., as follows:*

**SECTION 1.** Notwithstanding the provisions of any general or special law to the contrary, the city of Springfield retirement board may re-instate payments of section 100 of chapter 32 of the General Laws benefits to Doris Beauregard-Shecraallah retroactive to and effective July 1, 2000. Any of the retroactive benefit payments shall be reduced by any benefits paid to Doris Beauregard-Shecraallah as a guardian of her children.

**SECTION 2.** This act shall take effect upon its passage.

*The foregoing was laid before the Governor on the twenty-fourth day of June 6, 2004 and after ten days had the force of law as prescribed by the Constitution as it was not returned by him to the branch in which it originated with his objections thereto within that time.*

**Chapter 161. AN ACT AUTHORIZING THE TOWNS OF DENNIS AND BREWSTER TO GRANT CONSERVATION RESTRICTIONS TO THE DEPARTMENT OF CONSERVATION AND RECREATION.**

*Be it enacted, etc., as follows:*

**SECTION 1.** The commissioner of the department of conservation and recreation, in consultation with the division of capital asset management and maintenance, may take, in accordance with chapter 79 of the General Laws, or otherwise acquire, and the towns of Dennis and Brewster may convey easements or lesser interests through conservation restrictions under sections 31, 32, and 33 of chapter 184 of the General Laws to ensure the protection of open space, for public recreation, and preserve coastal wetlands and wildlife habitat, in and to all or a portion of certain parcels of land in the towns of Dennis and Brewster identified in section 2.

The parcels were taken or acquired by the towns of Dennis and Brewster for conservation purposes and shall continue to be owned in fee by the towns of Dennis and Brewster, respectively, under the jurisdiction and control of their respective conservation commissions or selectmen, subject to the perpetual conservation restrictions authorized by this act. The department of conservation and recreation, may co-hold all or any portion of the interests authorized to be acquired under this section with the trustees of the Dennis Conservation Trust or Brewster Conservation Trust and enter into agreements relative to the management of such interests with said trusts.

If the department of conservation and recreation acquires a conservation restriction on the lands described in book 17343, page 265 and recorded in the Barnstable county registry of deeds before the passage of this act, the authority as to this portion of the restrictions shall apply retroactively.

**SECTION 2.** The parcels are identified as follows:

(a) all or any portion of the lands, including lands under water, in the town of Dennis described in an order of taking recorded in the Barnstable county registry of deeds in book 17343, page 265, shown on plans recorded as plan book 560, page 76; plan book 566, page 87; plan book 568, page 43; plan book 563, page 83 and plan book 566, page 25; land court certificate numbers 21799 and 79910, shown as lot 144 on land court plan 26682H, lot 147 on plan 26682I, lots 108 and 110 on plan 26682G and lot 203 on plan 26682P and; orders of taking recorded in book 1884, page 173, book 2437, page 235 and book 2437, page 235,

**Chap. 161**

shown on plans recorded at plan book 272, page 43, plan book 310, page 100 and plan book 311, pages 1-3, respectively.

(b) all or any portion of the lands, including lands under water, in the town of Brewster described in an order of taking recorded in the Barnstable registry of deeds in book 1476, page 428 and in a deed shown as document no. 191537 on land court certificate no. 63288; the parcels together being shown as arae b on the land court plan recorded in miscellaneous tube no. 158, sheets 1 and 2 in the registry.

(c) all or any portion of the lands, including lands under water in the town of Brewster described in an order of taking recorded in the Barnstable registry of deeds in book 1123, page 170, and shown on a plan of land recorded in the registry as plan book 164, page 3, excluding approximately 30.9 acres of upland on the plan of land identified as "Wing's Island".

**SECTION 3.** This act shall take effect upon its passage.

Approved July 7, 2004.

**Chapter 162. AN ACT RELATIVE TO THE TOWN ADMINISTRATOR OF THE TOWN OF WEST BOYLSTON.**

*Be it enacted, etc., as follows:*

Section 8 of chapter 23 of the acts of 1995 is hereby amended by striking out subsection (p) and inserting in place thereof the following subsection:-

(p) keep and maintain an inventory of all property of the town that has a purchase value of \$1,000 or more.

Approved July 7, 2004.

**Chapter 163. AN ACT AUTHORIZING THE TOWN OF BELLINGHAM TO ESTABLISH CERTAIN REVOLVING FUNDS.**

*Be it enacted, etc., as follows:*

Notwithstanding section 53 of chapter 44 of the General Laws or any other general or special law to the contrary, the town of Bellingham may establish in the town treasury 3 revolving funds which shall be kept separate and apart from other monies by the treasurer of the town and in which shall be deposited the proceeds of any appropriation, grant, transfer, gift, fee and tuition received by the town for deposit in the funds. Any income derived from the investment or reinvestment of monies held in the funds shall remain in the General Fund of the town. The funds shall be as follows:

---

**Chap. 163**

School Department Bellingham Early Childhood Program  
School Department Bellingham After School Program  
School Department Alternative High School Printing Program.

The town treasurer shall provide revenue, expenditure and fund balance reports at each annual town meeting.

Approved July 7, 2004.

**Chapter 164. AN ACT INCREASING THE NUMBER OF THE PERMANENT  
INTERMITTENT POLICE FORCE IN THE CITY OF METHUEN.**

*Be it enacted, etc., as follows:*

**SECTION 1.** Section 1 of chapter 201 of the acts of 1945 is hereby amended by striking out, in line 3, the word "twelve" and inserting in place thereof the following figure:-20.

**SECTION 2.** The last paragraph of said section 1 of said chapter 201 is hereby amended by striking out, in line 6, the word "male".

**SECTION 3.** This act shall take effect upon its passage.

Approved July 7, 2004.

**Chapter 165. AN ACT PROVIDING FOR ABATEMENT OF TAXES CAUSED BY  
A FIRE IN THE CITY OF PEABODY ON DECEMBER 18, 2003.**

*Be it enacted, etc., as follows:*

**SECTION 1.** Notwithstanding sections 2A and 38 of chapter 59 of the General Laws, the board of assessors of the city of Peabody may for the fiscal year beginning July 1, 2003 determine the valuation of the property known as Building No. 6 at Ledgewood Condominiums, destroyed by the fire of December 18, 2003, at the time immediately after the fire for the purpose of granting abatements applied for under section 59 of said chapter 59.

**SECTION 2.** This act shall take effect upon its passage.

Approved July 7, 2004.

**Chapter 166. AN ACT RELATIVE TO LIQUOR LEGAL LIABILITY INSURANCE.**

*Be it enacted, etc., as follows:*

---

## Chap. 166

Chapter 223 of the acts of 1985 is hereby amended by striking out section 3 and inserting in place thereof the following section:-

Section 3. The association, pursuant to this chapter with respect to liquor legal liability insurance, on behalf of its members, shall issue or cause to be issued, policies of insurance to applicants, including incidental coverages and subject to limits as approved by the commissioner of insurance, to underwrite the insurance, and to adjust and pay losses with respect thereto, to appoint service companies to perform these functions; to assume reinsurance from its members; and to assign reinsurance.

Approved July 8, 2004.

## Chapter 167. AN ACT RELATIVE TO THE CHARTER OF THE CITY OF LAWRENCE.

*Be it enacted, etc., as follows:*

**SECTION 1.** Section 3.1 of chapter 425 of the acts of 1983 is hereby amended by striking out paragraph (b) and inserting in place thereof the following paragraph:-

(b) *Eligibility* - Any voter shall be eligible to hold the office of councilor at large. A district councilor shall be a voter and a resident of the district from which he is elected, at the time of his election; but a district councilor who removes from the district from which he was elected shall be considered to have vacated his position as district councilor and the vacancy shall be filled in the manner provided in section 3.9.

**SECTION 2.** Section 5.1 of said chapter 425 is hereby amended by striking out paragraph (b) and inserting in place thereof the following paragraph:-

(b) *Eligibility* - A district member shall be a voter and a resident of the district from which he is elected, at the time of his election; but a district member who removes from the district from which he was elected shall be considered to have vacated his position as district member, and the vacancy shall be filled in the manner provided in section 5.7.

**SECTION 3.** Said chapter 425 is hereby further amended by striking out section 5.7 and inserting in place thereof the following section:-

### 5.7 Filling of Vacancies.

If a vacancy occurs in the office of school committee member, it shall be filled in the same manner as is provided in section 3.9 for the filling of a vacancy in the office of district councilor.

Approved July 9, 2004.

---

## **Chapter 168. AN ACT RELATIVE TO THE MASSACHUSETTS CREDIT UNION SHARE INSURANCE CORPORATION.**

*Whereas*, The deferred operation of this act would tend to defeat its purpose, which is to provide forthwith for improved corporate governance of the Massachusetts Credit Union Share Insurance Corporation, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

*Be it enacted, etc., as follows:*

**SECTION 1.** The last paragraph of section 4 of chapter 294 of the acts of 1961, as appearing in section 1 of chapter 306 of the acts of 1973, is hereby amended by striking out, in line 5, the word "fifteen" and inserting in place thereof the following figure:- 60.

**SECTION 2.** The first paragraph of said section 4 of said chapter 294 is hereby amended by striking out paragraph (a), as appearing in section 2 of chapter 278 of the acts of 1982, and inserting in place thereof the following paragraph:-

(a) Eleven directors shall be elected from the member credit unions; but any person who is serving as a director on the effective date of this paragraph shall be eligible to be re-elected to the office upon the expiration of his then current term of office and each successive term, if any, notwithstanding the following sentence. Directors elected from the membership shall serve in the capacity of president or chief executive officer, or equivalent, of the member credit union at the time of their election.

**SECTION 3.** The first paragraph of section 5 of said chapter 294, as amended by chapter 234 of the acts of 1987, is hereby further amended by striking out, in line 2, the word "sixty" and inserting in place thereof the following figure:- 125.

**SECTION 4.** Section 6D of said chapter 294, as most recently amended by section 4 of chapter 115 of the acts of 1996, is hereby amended by adding the following paragraph:-

(l) An excess member shall, upon request, make its financial records available to the corporation for an insurance review. The corporation shall, at its discretion, review the affairs of the member to evaluate the level of risk of loss the excess member's financial condition may pose to the corporation. The results of the insurance review shall be made available to the commissioner upon request. The costs of the insurance review shall be borne by the credit union at the discretion of the corporation. Upon an insurance review, the corporation may make recommendations to an excess member it deems expedient.

**SECTION 5.** Section 7 of said chapter 294, as most recently amended by section 4 of chapter 278 of the acts of 1982, is hereby further amended by striking out subsection (d), and inserting in place thereof the following subsection:-

(d) With the approval of the commissioner, the board of directors may pay to regular, excess or inactive members a dividend computed on the aggregate assessments paid by each member pursuant to this chapter.

**SECTION 6.** Said chapter 294 is hereby further amended by striking out section 9 and inserting in place thereof the following section:-

Section 9. The board of directors of the corporation may by their vote and with the approval of the commissioner borrow money for the purposes of the share insurance fund and may pledge any assets in which such fund is invested as security for such loans. The directors may buy reinsurance and bonds or make purchases of stock or otherwise participate in the capital structure of a corporation for the purposes of protecting and strengthening the share insurance fund and reducing and diversifying the overall risk to the fund or make purchases of stock in a corporation formed for the purpose of providing excess insurance or of reinsuring share insurance corporations. The corporation may evaluate and transfer funds to a regional or national share insurance corporation whose primary function is for the insurance of shares or the reinsurance of share insurance corporations.

**SECTION 7.** Section 12 of said chapter 294, as amended by section 5 of chapter 306 of the acts of 1973, is hereby further amended by adding the following 2 paragraphs:-

In addition to the foregoing, the corporation may make the following investments:-

(a) in the shares of the Central Credit Union Fund, Incorporated, authorized by section 3 of chapter 216 of the acts of 1932;

(b) in the shares of any federally chartered corporate credit union; but, not more than 25 per cent of the assets of the corporation shall be invested in the shares;

(c) in deposits in savings banks incorporated in the commonwealth;

(d) in paid-up shares and accounts of and in cooperative banks incorporated in the commonwealth;

(e) in the shares of savings and loan associations incorporated in the commonwealth;

(f) in deposits in trust companies incorporated in the commonwealth;

(g) in deposits in banking companies incorporated in the commonwealth which are members of the Federal Deposit Insurance Corporation;

(h) in the shares of federal savings and loan associations having a usual place of business within the commonwealth to an amount not in excess of the insurance provided by the Federal Savings and Loan Insurance Corporation for a depositor in any one of the associations;

(i) in deposits in national banks located in the commonwealth;

(j) in bonds or notes of the United States or of any state or subdivision thereof;

(k) obligations of other federal agencies which appear on the list of legal investments prepared pursuant to section 15A of chapter 167 of the General Laws;

(l) in repurchase agreements secured by government obligations up to 1 year maturity;

(m) in a common trust unit plan organized for the purchase of obligations of the United States or any subdivision thereof which appear on the list of legal investments prepared pursuant to said section 15A of said chapter 167 and which plan has as its custodian a banking institution authorized to accept deposits from a credit union or from a savings bank;

(n) participate in federal funds with those banking corporations which are listed as eligible for such an investment, on the list of legal investments prepared pursuant to said section 15A of said chapter 167;

(o) in any obligations, bank stocks, bank holding company stocks, insurance stocks or preferred stocks of public utility companies which appear on the list of legal investments prepared pursuant to said section 15A of said chapter 167;

(p) in certificates of deposit having a maturity not in excess of 2 years of a banking corporation; provided, however, that (i) either the banking corporation or a bank holding company as, defined by chapter 167A of the General Laws which owns 2/3 of the outstanding shares of each class of the banking corporation's voting stock has paid, in each of the 5 years immediately preceding the date of investment dividends, in cash of not less than 4 per cent of its common stock without having reduced the aggregate par value thereof; (ii) the banking corporation has surplus at least equal to 50 per cent of its capital stock; (iii) the banking corporation has a combined total of capital stock, surplus, undivided profits, capital debentures and reserve for contingencies at least equal to 6 per cent of its aggregate deposit liability at the end of the calendar year immediately preceding the date of investment; and (iv) the banking corporation is, if its principal office is located outside the commonwealth, a member of the federal reserve system; provided, however, that in the case of a banking corporation having a combined total of capital stock, surplus, undivided profits and reserve for contingencies equal to at least \$500,000,000, the said combined total may be less than 6 per cent, but not less than 5 per cent, of its aggregate deposit liability at the end of the calendar year immediately preceding the date of investment. The limitations imposed by clause (i) of this paragraph shall not apply to an aggregate investment of not in excess of \$100,000 in certificates of deposit of a banking corporation, the deposits of which banking corporation are insured by the Federal Deposit Insurance Corporation;

(q) in banker's acceptances of the kinds and maturities made eligible by law for rediscount with federal reserve banks; if the same are accepted by a bank, banking association or trust company incorporated under the laws of the United States or of this commonwealth, and having its principal place of business within the commonwealth;

(r) in bonds of governments or countries friendly to the United States as defined by the United States Department of State;

(s) in the capital stock of the Federal Home Loan Bank of Boston;

(t) notwithstanding clause (k), the corporation may invest in mortgage backed securities originated by the corporation when the securities are guaranteed by the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation.

For the purposes of clauses (a) to (i), inclusive, of the preceeding paragraph, the words "shares, deposits and accounts" shall include term share, term deposit, certificate of deposit, or term account with a maturity not to exceed 3 years.

Approved July 9, 2004.

---

## Chapter 169. AN ACT RELATIVE TO THE FINANCIAL STABILITY IN THE CITY OF SPRINGFIELD.

*Be it enacted, etc., as follows:*

### **SECTION 1.** The general court finds that:-

- (1) The city of Springfield has a projected structural deficit for fiscal year 2005.
- (2) Without significant changes the city is likely to project a structural deficit in fiscal year 2006.
- (3) As a result of such structural deficits, the city is unable to enact a balanced budget and is in fiscal crisis.
- (4) The fiscal crisis poses an imminent danger to the safety of citizens of the city and their property.
- (5) Without an approved balanced budget, the city will be unable to collect property taxes during part or all of fiscal year 2005.
- (6) The city may be unable to obtain reasonable access to credit markets.
- (7) The city's credit has been downgraded to a sub-investment grade credit rating.
- (8) The city has received fiscal 2004 local aid from the commonwealth in excess of \$260,000,000, representing over 60 per cent of its operating budget, a proportion in keeping with that of recent years.
- (9) Special acts approved in 1989, 1991 and 1996 have not been successful in achieving fiscal stability for the city.
- (10) In order to assure a comprehensive long-term solution to the city's financial problems, it is necessary to enact extraordinary remedies, including a finance control board and, if necessary, a receiver, with the powers necessary to achieve the intent of this act.
- (11) The governor has recommended to the general court pursuant to section 8 of Article LXXXIX of the Amendments to the Constitution that legislation be enacted to resolve the financial emergency in the city and to restore financial stability to the city.

**SECTION 2.** Notwithstanding any general or special law to the contrary, there is hereby established and set up on the books of the commonwealth the Springfield Fiscal Recovery Trust Fund, in this act called the fund, the sole purpose of which shall be to provide interest free loans to the city of Springfield. Effective June 30, 2004, the comptroller shall transfer to the fund \$52,000,000 from the General Fund to the fund. The fund shall be established as a separate trust fund, subject to the control of the secretary for administration and finance, who shall serve as the trustee and who may approve without further appropriation interest-free loans from the fund to the city of Springfield. The loan shall be disbursed to the city from time to time in such amounts and upon terms and conditions determined by the finance control board and approved by the secretary for administration and finance. These terms and conditions may provide that payment of money on account of tax receivables be paid over to the commonwealth to reduce any loan balance. The city shall repay the loan on a schedule proposed by the finance control board and approved by the secretary for administration and finance. Any such repayment schedule proposed by the finance control board and approved by the secretary for administration and finance shall

begin in fiscal year 2008. The city shall repay the entire balance of amounts loaned pursuant to this section no later than June 30, 2012. This loan shall not be forgiven in whole or in part, and failure to repay the full value of loans disbursed from the fund to the city shall result in an equally commensurate reduction in local aid payments made by the commonwealth to the city in fiscal year 2013. The repayments shall be deposited in the commonwealth's General Fund. Loan amounts from the fund may be expended for the 3-year operating expenses of the Springfield finance control board established in section 4, subject to the approval of the secretary for administration and finance. The secretary shall report quarterly to the house and senate committees on ways and means on expenditures made from the fund, including the amounts and purposes of expenditures for personnel costs, contracted personnel costs or consultant fees. Notwithstanding any general or special law to the contrary, any indebtedness incurred under this act shall not be included in determining the statutory limit of indebtedness of the city under section 10 of chapter 44 of the General Laws, but except as provided in this act, shall otherwise be subject to the provisions of said chapter 44. Any amounts loaned to the city from funds made available in this section shall be repaid to the commonwealth regardless of any actions taken by any trustees appointed on behalf of the city pursuant to chapter 9 of Title 11 of the United States Code. The secretary shall report quarterly to the house and senate committees on ways and means on the amounts and purposes of expenditures made from the fund. The fund shall expire on June 30, 2007.

**SECTION 3.** Notwithstanding section 2 of chapter 44A of the General Laws, the city of Springfield may apply for the designation of revenue anticipation notes authorized under section 4 of chapter 44 of the General Laws as qualified debt, and may be authorized to issue such notes as qualified debt for so long as the board established by section 4 continues in existence, or for the period of any receivership under section 5.

**SECTION 4.** (a) There shall be in the city of Springfield a finance control board, in this act called the board, which shall consist of 5 members: 3 designees of the secretary of administration and finance, the mayor of the city of Springfield, and the president of the city council of the city of Springfield. The board shall act by a majority vote of all its members. The secretary for administration and finance, in this act called the secretary, may fix stipends to be paid to members of the board other than the mayor and president of the city council of Springfield, which stipends shall be paid from directly from the trust established in section 2. The board shall initiate and assure the implementation of appropriate measures to secure the financial stability of the city, and shall continue in existence until June 30, 2007, and thereafter for such period as the members may vote to continue its existence, provided however that the secretary of administration and finance may at any time abolish the board. The board shall be a state agency for the purpose of chapter 268A of the General Laws.

(b) Action by the board under the authority of this act shall in all respects constitute action by the city for all purposes under the General Laws and under any special law.

(c) Until the board ceases to exist, no appropriation, borrowing authorization, transfer, including transfer from or replenishment of funds into the supplemental reserve fund

under section 7 of chapter 656 of the acts of 1989, or other municipal spending authority shall take effect until approved by the board. The board shall approve all appropriations, borrowing authorizations, transfers, or any other municipal spending authorizations, in whole or part.

(d) In addition to the authority and powers conferred elsewhere in this act, and notwithstanding any city charter provision, or local ordinance to the contrary, the board shall have the following powers:

(1) to amend the annual or supplemental budgets of the city and the school committee, including the establishment, increase or decrease of any appropriations and spending authority for all departments, boards, committees, agencies or other units of the city and the school committee, but, notwithstanding section 34 of chapter 71 of the General Laws, this paragraph shall fully apply to the school department and all school spending purposes;

(2) to implement and maintain uniform budget guidelines and procedures for all departments;

(3) to amend, formulate and execute capital budgets, including to amend any borrowing authorization, or finance or refinance any debt in accordance with law;

(4) to amortize operational deficits in an amount and for such term as the secretary approves on an annual basis;

(5) to develop and maintain a uniform system for all financial planning and operations in all departments, offices, boards, commissions, committees, agencies or other units of the city's government, including the school department;

(6) to review and approve or disapprove all proposed contracts for goods or services;

(7) notwithstanding any general or special law to the contrary, to establish, increase, or decrease any fee, rate, or charge, for any service, license, permit or other municipal activity, otherwise within the authority of the city;

(8) notwithstanding the charter or any city ordinance to the contrary, to appoint, remove, supervise and control all city employees and have control over all personnel matters; the board shall hold all existing powers to hire and fire and set the terms and conditions of employment held by other employees or officers of the city, whether or not elected; the board shall have the authority to exercise all powers otherwise available to a municipality regarding contractual obligations during a fiscal emergency; and no city employee or officer shall hire, fire, transfer or alter the compensation or benefits of any employee except with the written approval of the board. The board may delegate or otherwise assign these powers with the approval of the secretary;

(9) to alter the compensation of elected officials of the city to reflect the fiscal emergency and changes in the responsibilities of the officials as provided by this act;

(10) to employ, retain, and supervise such managerial, professional and clerical staff as are necessary to carry out its responsibilities, with the approval of the secretary. The board, with the approval of the secretary, shall have authority to set the compensation, terms, and conditions of employment of its own staff. The compensation of personnel hired pursuant to this subsection shall be determined and fixed by the board and paid directly from

---

## Chap. 169

the trust established in section 2. Staff hired under this subsection shall be deemed employees of the commonwealth, except such employees as the board formally designates independent contractors, but chapters 31 and 150E of the General Laws shall not apply to such employees.

(11) to reorganize, consolidate or abolish departments, commissions, boards, offices or functions of the city, in whole or in part, and to establish such new departments, commissions, boards, offices or functions as it deems necessary, and to transfer the duties, powers, functions and appropriations of 1 department, commission, board or other unit to another;

(12) to appoint in consultation with the secretary persons to fill vacancies on any board, committee, department, or office acting in an advisory capacity to the board;

(13) to sell, lease, or otherwise transfer real property and other assets of the city with the approval of the secretary;

(14) to purchase, lease, or otherwise acquire property or other assets on behalf of the city with the approval of the secretary;

(15) to promulgate rules and regulations governing the operation and administration of the city;

(16) to seek voter approval of such general override, debt exclusion or capital expenditure exclusion ballot questions as are provided for in section 21C of chapter 59 of the General Laws;

(17) to approve the allocation of the tax levy through the selection of a residential factor pursuant to section 56 of chapter 40 of the General Laws but no choice of a residential factor under said section 56 shall be valid until it has been approved by the board;

(18) to alter or rescind any action or decision of any municipal officer, employee, board or commission within 14 days after receipt of notice of such action or decision;

(19) to suspend in consultation with the secretary such rules and regulations of the city and to promulgate rules and regulations necessary to carry out this act; and

(20) to exercise all powers under the General Laws and this or any other special act, any charter provision or ordinance that any elected official of the city may exercise, acting separately or jointly. With respect to any such exercise of powers by the board, the elected officials of the city shall not rescind or take any action contrary to such action by the board so long as the board continues to exist.

**SECTION 4A.** Within 30 days after the appointment of the board, but no later than September 1, 2004, the board shall make a preliminary report to the secretary of administration and finance and to the chairpersons of the house and senate committees on ways and means. The report shall present a preliminary analysis of the fiscal crisis in Springfield and the board's preliminary finance and management plans to address the city's operating and structural deficits. The board shall examine the feasibility and advisability of measures to mitigate or relieve the burden of school transportation costs.

**SECTION 5.** (a) If the board established by section 4 concludes that its powers are insufficient to restore fiscal stability to the city of Springfield, it shall so notify the secretary

for administration and finance, and shall forward to him a statement of the reasons why it has been unable to restore fiscal stability to the city. Upon receipt of such statement, the secretary for administration and finance may terminate the existence of the board, notwithstanding section 4, and may appoint a receiver for the city for a period as he may determine. The secretary may at any time and without cause remove the receiver and appoint a successor, or terminate the receivership. The secretary shall determine the salary of the receiver, which salary shall be payable by the city.

(b) The receiver shall have the following powers:-

(1) all powers of the finance control board under section 4. Such powers shall continue in the receiver and shall remain through the period of any receivership;

(2) the power to exercise any function or power of any municipal officer or employee, whether elected or otherwise, specifically including the following powers relative to building and zoning:

(A) to order the laying out, locating anew or discontinuing of streets and ways within the city;

(B) to regulate the construction of buildings;

(C) to implement such changes to the city's zoning ordinance as are necessary; provided, however, that the zoning ordinance continues to promote public safety, health, and welfare; and provided further, that no zoning change shall affect or interfere with the integrity of existing residential districts. No such proposed zoning changes shall apply to structures or uses lawfully existing or lawfully begun before the effective date of the zoning change;

(i) The procedure for implementing changes in zoning ordinances as provided in section 5 of chapter 40A of the General Laws shall not govern such changes in the city during the time the receiver is in operation.

(ii) The receiver shall not implement any zoning change until a public hearing has been held at which interested persons shall have an opportunity to be heard. The public hearing shall be held within 60 days after the date on which the board originally proposed the zoning change. Notice of the time and place of the public hearing, of the subject matter sufficient for identification, and of the place where texts and maps thereof may be inspected shall be published in a newspaper of general circulation in the city once in each of 2 successive weeks; but the first publication shall be not less than 14 days before the day of the hearing; and notice shall also be posted in a conspicuous place in city hall for a period of not less than 14 days before the day of the hearing.

(iii) Notice of such proposed zoning change shall be sent to any nonresident property owner who files an annual request for such notice with the city clerk no later than January 1 of each year. The receiver shall establish a reasonable fee to cover the cost of providing these notices; and

(3) the power to file a petition in the name of the city under Chapter 9 of Title 11 of the United States Code, and to act on the city's behalf in any such proceeding.

(c) Upon the appointment of a receiver, the office of mayor shall be abolished, and the receiver shall exercise all the powers of the mayor under the General Laws, special laws, the city charter and ordinances. Other elected officials of the city shall continue to be elected in accordance with the city charter, and shall serve solely in an advisory capacity to the receiver.

**SECTION 6.** (a) Notwithstanding chapter 60 of the General Laws, the board or the receiver may invoke this section by a written statement filed with the treasurer and the city council, which statement shall also be given by publication as defined in section 1 of said chapter 60 and recorded in the registry of deeds.

(b) If the board or the receiver invokes the provisions of this section, the rights of redemption from tax title of all parcels of real estate for which the tax title is held by the city of Springfield shall be foreclosed by operation of law without the necessity of sale pursuant to section 79 of chapter 60 of the General Laws or of filing a petition to foreclose under section 65 of said chapter 60, at the expiration of 1 year from the effective date of publication of the statement required by the first paragraph of this section or 1 year from the date of the tax taking, whichever is later; if the city has given notice by certified or registered mail to any person who has filed a statement with the city under section 39 of said chapter 60, and to assessed owners, and has given notice by publication, as defined in section 1 of said chapter 60, at least 3 months before the expiration of the 1-year redemption period, which notice shall list each parcel by address and by the name of the assessed owner at the time of the tax taking or sale, and the assessed owner for the most recent annual assessment, if different. This section shall apply to tax titles created by instruments recorded before the effective date of this act and to those recorded during the existence of the board or receiver. Such provisions shall have no effect on any legal proceeding commenced before July 1, 2005 in the courts of the commonwealth in which a party has appeared asserting a cause of action and claiming a right to redeem. This section shall not apply to tax titles that are the subject of a payment agreement under an ordinance enacted pursuant to section 10, but if this section is invoked the city shall record at the registry of deeds a list of all parcels subject to such agreements. The finance control board or the receiver shall have the power to disclaim title to any property acquired by foreclosure under this section, if it is of the opinion that the title so acquired is of doubtful validity.

**SECTION 7.** The city of Springfield may, with prior approval of the board, by ordinance authorize payment agreements between the treasurer and persons entitled to redeem parcels in tax title. Such agreements shall be for a maximum term of no more than 3 years, or such lesser period as the ordinance may specify, and may waive up to 30 per cent of the interest that has accrued on the amount of the tax title account, subject to such lower limit as the ordinance may specify. An ordinance under this section shall provide for such agreements and waivers uniformly for classes of tax titles defined in the ordinance. Any such agreement must require a minimum payment at the inception of the agreement of 40 per cent of the amount needed to redeem the parcel. During the term of the agreement the treasurer may not bring an action to foreclose the tax title unless payments are not made in

accordance with the schedule set out in the agreement, or timely payments are not made on other amounts due to the municipality that constitute a lien on the same parcel.

**SECTION 8.** In addition to the supplemental reserve fund under section 7 of chapter 656 of the acts of 1989, there shall be in the city of Springfield a capital reserve fund into which the city shall appropriate in each fiscal year at least 1.5 per cent of the amount of property taxes committed for the preceding fiscal year. The fund may be appropriated only for purposes for which the city could borrow for 10 years or longer under chapter 44 of the General Laws.

**SECTION 9.** (a) The board shall submit reports to the house and senate committees on ways and means not later than October 1, January 1, April 1, and July 1 of each year, which shall provide a detailed accounting of all loan funds expended pursuant to section 2. The accounting shall itemize by recipient the amount of any stipends paid pursuant to section 4.

(b) The board shall submit a report to the house and senate committees on ways and means not later than 5 days before the award of any no-bid contract to any private person or entity. This report shall disclose: (1) the terms of the anticipated contract, including but not limited to all monetary compensation; (2) the identity of the contractor and any subcontractor or affiliate of such contractor that would benefit under the contract; (3) a specific finding by the board that not using a competitive bidding process under the circumstances is necessary to ensure the provision of essential services to the city; and (4) a certification by the board that it engaged in arms-length negotiations with the contractor and that the terms of the contract represent the best possible arrangement for the city under the circumstances.

(c) The finance control board shall submit a report to the house and senate committees on ways and means not later than 5 days before the award of any contract if, at any time within 3 years before the effective date of this act, any member of the finance control board or any employee or officer of the executive office of administration and finance served as an employee, member or general or limited partner of the contractor, its owners or affiliates. The report shall also disclose whether, at any time within 3 years before the effective date of this act, any member of the finance control board or any employee or officer of the executive office of administration and finance was required to file a statement pursuant to the Securities Exchange Act of 1934 as beneficial owner of more than 10 per cent of a class of the contractor's equity securities. This report shall disclose the terms of the anticipated contract, including but not limited to all monetary compensation, and the identity of the contractor and any subcontractor or affiliate of such contractor that would benefit under the contract.

**SECTION 10.** This act shall be effective notwithstanding any charter provision or ordinance to the contrary.

**SECTION 11.** This act shall take effect upon its passage.

---

## Chap. 169

### *Section reduced in amount and by striking the wording*

Section	Reduce by	Reduce to	Wording Stricken
---------	-----------	-----------	------------------

2	30,000,000	22,000,000	"Notwithstanding any general or special law to the contrary, there is hereby established and set up on the books of the commonwealth the Springfield Fiscal Recovery Trust Fund, in this act called the fund, the sole purpose of which shall be to provide interest free loans to the city of Springfield. Effective June 30, 2004, the comptroller shall transfer to the fund \$52,000,000 from the General Fund to the fund."
---	------------	------------	----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

### *Wording Inserted*

"Notwithstanding any general or special law to the contrary, there is hereby established and set up on the books of the commonwealth the Springfield Fiscal Recovery Trust Fund, in this act called the fund, the sole purpose of which shall be to provide interest free loans to the city of Springfield. Effective June 30, 2004, the comptroller shall transfer to the fund \$22,000,000 from the General Fund to the fund."

*The remainder of the bill was approved by the Governor on July 9, 2004 at two o'clock and four minutes, P.M.*

*The objections of the Governor notwithstanding and in the manner prescribed by the Constitution, on July 14, 2004 the House of Representatives and the Senate in concurrence passed the following Item: SECTION 2.*

## **Chapter 170. AN ACT RELATIVE TO THE POSSESSION OF ELECTRONIC WEAPONS.**

*Whereas, The deferred operation of this act would tend to defeat its purpose, which is to authorize forthwith certain possession and use of electronic weapons, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.*

*Be it enacted, etc., as follows:*

**SECTION 1.** Chapter 140 of the General Laws is hereby amended by striking out

section 131J, as appearing in the 2002 Official Edition, and inserting in place thereof the following section:-

Section 131J. No person shall possess a portable device or weapon from which an electrical current, impulse, wave or beam may be directed, which current, impulse, wave or beam is designed to incapacitate temporarily, injure or kill, except: (1) a federal, state or municipal law enforcement officer, or member of a special reaction team in a state prison or designated special operations or tactical team in a county correctional facility, acting in the discharge of his official duties who has completed a training course approved by the secretary of public safety in the use of such a device or weapon designed to incapacitate temporarily; or (2) a supplier of such devices or weapons designed to incapacitate temporarily, if possession of the device or weapon is necessary to the supply or sale of the device or weapon within the scope of such sale or supply enterprise. No person shall sell or offer for sale such device or weapon, except to federal, state or municipal law enforcement agencies. A device or weapon sold under this section shall include a mechanism for tracking the number of times the device or weapon has been fired. The secretary of public safety shall adopt regulations governing who may sell or offer to sell such devices or weapons in the commonwealth and governing law enforcement training on the appropriate use of portable electrical weapons.

Whoever violates this section shall be punished by a fine of not less than \$500 nor more than \$1,000 or by imprisonment in the house of correction for not less than 6 months nor more than 2½ years, or by both such fine and imprisonment. A law enforcement officer may arrest without a warrant any person whom he has probable cause to believe has violated this section.

**SECTION 2.** The secretary of public safety shall develop a uniform protocol directing state police and municipal police officers to collect data pursuant to this act. Such data shall include the number of times the device or weapon has been fired and the identifying characteristics, including the race and gender, of the individuals who have been fired upon. Not later than 1 year after the effective date of this act, the secretary of public safety shall transmit the necessary data to a university in the commonwealth with experience in the analysis of such data, for annual preparation of an analysis and report of its findings. The secretary shall forthwith transmit the university's annual report to the department of the attorney general, the department of state police, the Massachusetts Chiefs of Police Association, the executive office of public safety and the clerks of the house of representatives and the senate.

Approved July 15, 2004.

## **Chapter 171. AN ACT AUTHORIZING THE TOWN OF RAYNHAM TO ESTABLISH A BETTERMENT RESERVE FUND.**

*Be it enacted, etc., as follows:*

---

## Chap. 171

Notwithstanding section 53 of chapter 44 of the General Laws or any other general or special law to the contrary, the town of Raynham may establish a separate fund to be known as the Betterment Reserve Fund, which shall be kept separate and apart from all other monies of the town by the town treasurer and in which shall be deposited all betterment payments received by the town. The treasurer may invest such funds in the manner authorized by sections 54 and 55 of said chapter 44. The principal and interest earned on the fund shall be reserved for appropriation for the payment of the town's betterment debt. Any excess in the fund may be transferred to the General Fund of the town.

Approved July 15, 2004.

## Chapter 172. AN ACT ESTABLISHING A FORMULA FOR THE DISTRIBUTION OF COMMUNITY POLICING GRANTS.

*Whereas*, The deferred operation of this act would tend to defeat its purpose, which is to establish forthwith a formula for the distribution of community policing grants, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

*Be it enacted, etc., as follows:*

**SECTION 1.** Notwithstanding any general or special law to the contrary, the executive office of public safety, in cooperation with the Massachusetts Chiefs of Police Association, shall submit a report to the house and senate committees on ways and means no later than October 1, 2004 that shall recommended a formula for the equitable distribution of community policing grants based upon, but not limited to, the following: accurate statistics for each municipality's population as of the 2000 census, historic levels of community policing grants, violent crime rates, seasonal population fluctuations, hate crimes statistics, non-violent crime rates, tourism and visitor statistics, terrorist attack risk assessment and law enforcement officer assault statistics. Said report shall also include detailed information regarding unexpended balances of said funds for each municipality and the reason for said unexpended balances. No competitive grant funds shall be distributed from item 8000-0010, in section 2 of this act, in fiscal year 2005 prior to the enactment of legislation establishing a new distribution formula for the allocation of said community policing grants. No municipality shall receive funding from said item until they have submitted uniform crime statistics to the Federal Bureau of Investigations. Earmarked funds in the community policing item shall be reduced 33.3 per cent beginning in fiscal year 2006 and in each subsequent fiscal year with the intention of eliminating earmarked funds from said item by fiscal year 2008.

**SECTION 2.** This act shall take effect as of July 1, 2004.

Approved July 15, 2004.

---

## **Chapter 173. AN ACT ESTABLISHING UNIFORM PRIMARY PROCEDURES FOR UNENROLLED VOTERS.**

*Be it enacted, etc., as follows:*

**SECTION 1.** The first paragraph of section 37 of chapter 53 of the General Laws, as appearing in the 2002 Official Edition, is hereby amended by striking out the fifth sentence and inserting in place thereof the following sentence:- If the voter was unenrolled before selecting a party ballot, he shall continue to be unenrolled and shall be recorded as unenrolled in the current annual register of voters.

**SECTION 2.** Section 37A of said chapter 53, as so appearing, is hereby amended by striking out the last paragraph and inserting in place thereof the following paragraph:-

If the voter was unenrolled before selecting a party ballot, he shall continue to be unenrolled and shall be recorded as unenrolled in the current annual register of voters.

**SECTION 3.** The first paragraph of section 38 of said chapter 53, as so appearing, is hereby amended by striking out the second sentence.

**SECTION 4.** Said section 38 of said chapter 53, as so appearing, is hereby further amended by striking out the second, third and fourth paragraphs.

Approved July 15, 2004.

## **Chapter 174. AN ACT AUTHORIZING THE DIVISION OF CAPITAL ASSET MANAGEMENT AND MAINTENANCE TO LEASE CERTAIN PROPERTY.**

*Whereas*, The deferred operation of this act would tend to defeat its purpose, which is to authorize forthwith the lease of certain property to the city of Lynn, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

*Be it enacted, etc., as follows:*

**SECTION 1.** Notwithstanding sections 40E to 40J, inclusive, of chapter 7 of the General Laws, the commissioner of capital asset management and maintenance may lease, in consultation with the commissioner of conservation and recreation for an initial term of 25 years together with an option to renew for 2 additional 10 year terms, certain land and a building thereon located in the city of Lynn to the Lynn Historical Society and Museum. The property, known as the Lynn Heritage State Park Visitor Center and located at 590 Washington Street, shall be used for operating and managing a historical museum, interpretive exhibit, public access and meeting space, in partnership with the department of conservation and recreation. The lease agreement shall be subject to such terms and conditions as the commissioner may prescribe, in consultation with the department of conservation

and recreation.

**SECTION 2.** No lease agreement entered into under section 1, by or on behalf of the commonwealth, shall be valid unless the agreement provides that the property shall be used solely for the purposes described in section 1. If for any reason the property ceases to be used solely for the purposes described in section 1, the commissioner, in consultation with the department of conservation and recreation, may terminate the lease. If the lease is terminated, the property shall revert to the commonwealth under the care and control of the department of conservation and recreation.

**SECTION 3.** Such lease shall be on terms acceptable to the commissioner of capital asset management and maintenance after consultation with the commissioner of conservation and recreation and, notwithstanding any general or special law to the contrary, shall provide for the lessee to manage, operate, improve, repair and maintain the building. Any lease or other arrangement requiring improvements to be made to the building may include a description of the initially required improvements and, at a minimum, performance specifications. The lease and other agreements shall provide that any benefits to the community, the costs of utilities, the costs for staffing for public programming and access and the costs of improvements and repairs to be made to the building by the lessee shall be taken into account as part of the consideration for the lease or other agreement.

**SECTION 4.** The inspector general shall review and approve the lease agreement and any terms and conditions contained therein, as authorized under section 1. The inspector general shall prepare a report of his review and file the report with the commissioner for submission to the house and senate committees on ways and means and the chairmen of the joint committee on state administration. The commissioner shall, 30 days before the execution of any agreement authorized by this act or any subsequent amendment thereto, submit the agreement or amendment and a report thereon to the inspector general for his review and comment. The inspector general shall issue his review and comment within 15 days of receipt of any agreement or amendment. The commissioner shall submit the agreement and any subsequent amendments thereto, the reports and the comments of the inspector general to the house and senate committees on ways and means and the chairmen of the joint committee on state administration at least 15 days before execution.

**SECTION 5.** The lessee shall compensate the commonwealth the full and fair market value of the property described in section 1, or its value in use as proposed, whichever is greater, as determined by independent appraisal. Such compensation shall incorporate the considerations included in section 3. The lease shall require the lessee to provide annual itemized statements to the commissioner of capital asset management and maintenance, or his designee, of the considerations identified in section 3 that are to be claimed by the lessee.

Approved July 15, 2004.

---

**Chapter 175. AN ACT RELATIVE TO THE DISCONTINUANCE OF A PORTION OF DOCK LANE IN THE CITY OF BEVERLY.**

*Be it enacted, etc., as follows:*

Notwithstanding any general or special law to the contrary, the public right of use and passage over a portion of Dock lane in the city of Beverly is hereby discontinued and abandoned. That portion is shown as Lot 4 on a plan entitled "Subdivision" Plan of Land Beverly, MA dated March 6, 1996 by Dewsnap Engineering Associates recorded at the Essex county registry of deeds at Plan Book 306 Plan 48.

Approved July 15, 2004.

**Chapter 176. AN ACT RELATIVE TO THE CHARTER OF THE TOWN OF NEEDHAM.**

*Be it enacted, etc., as follows:*

**SECTION 1.** Section 19 of 403 of the acts of 1971 is hereby amended by striking out, in lines 14 and 15, the words "Three or more assistant assessors, if the town shall so vote for the term of three years".

**SECTION 2.** Said chapter 403 is hereby further amended by striking out section 20 and inserting in place thereof the following 4 sections:-

**Section 20. *Appointed Officials.*** (a) The board of selectmen shall appoint and may remove a town manager or acting town manager in accordance with section 20A.

(b) The selectmen shall appoint town counsel, members of the board of appeals, election officers, registrars of voters except the town clerk, members of the historic commission, conservation commission, commission on disabilities, and, except as provided in section 19, all other boards, committees, and commissions of the town for whom no other method of selection is provided in this charter or by-law.

(c) The town manager shall appoint, subject to the approval of the board of selectmen: a chief of the police department; a chief of the fire department; a director of public works; an assistant town manager/director of finance or person performing said function regardless of title; and an assistant town manager/personnel director, or person performing said function regardless of title. Appointments made by the town manager shall become effective upon the approval of the board of selectmen. If the board of selectmen shall fail to act, appointments made by the town manager shall become effective on the fifteenth day following the day on which notice of the proposed appointment is filed with the board of selectmen. For the purposes of this section, notice of appointment shall be considered filed with the board of selectmen when the notice is filed at an open meeting of the board of selectmen.

(d) The town manager shall be the appointing authority for the following officials and employees of the town:

---

## Chap. 176

(1) A town accountant, a town treasurer/tax collector, a planning director, an administrative assessor, an inspector of buildings, a director of public health, a director of veterans' services, a director of park and recreation, a director of youth services, a director of management information systems, an executive director of the council on aging, a library director, a town engineer, a director of municipal building maintenance, and a building construction and renovation manager; or persons performing said functions regardless of title.

(2) All other employees and officials of the town for whom no other method of selection is provided in this charter, with the exception of the executive secretary of the finance committee, who shall be appointed by that committee, and employees of the school department.

(e) Any appointment by the town manager in accordance with subsection (d) 1 shall be subject to the approval of the elected or appointed board or committee having jurisdiction over a department, if any. Appointments made by the town manager shall become effective upon the approval of said board or committee. If said board or committee shall fail to act, appointments made by the town manager shall become effective on the fifteenth day following the day on which notice of the proposed appointment is filed with said board or committee. For the purposes of this section, notice of appointment shall be considered filed with said board or committee when such notice is filed at an open meeting of the board or committee.

(f) Any person so appointed by the town manager under subsections (c) and (d), who is not subject to chapter 31 of the General Laws, may be removed by the town manager; provided, however, that no removal shall be made of officers listed in subsection (c), except with the approval of the selectmen, and that no removal shall be made of other employees or officers until the town manager consults with the elected or appointed boards or committees having jurisdiction over that employee's department, if any. Removal of officers listed in subsection (c) shall become effective upon the approval of the board of selectmen. If the board of selectmen shall fail to act, removals made by the town manager shall become effective on the fifteenth day following the day on which notice of the proposed removal is filed with the board of selectmen. For the purposes of this section, notice of removal shall be considered filed with the board of selectmen when such notice is filed at a meeting of the board of selectmen.

Section 20A. *Appointment and Removal of Town Manager.* (a) *Appointment of Town Manager.*

(1) The selectmen shall appoint, for a term not to exceed 3 years, a town manager, who shall be a professionally qualified person of proven ability who has had substantial involvement with municipal government and is appropriately fitted by education, training, and by previous full-time paid experience in a responsible administrative position to perform the duties of the office.

(2) Upon expiration of the term, or upon the resignation or removal of the town manager, or in the event of any vacancy in the office of town manager, the selectmen shall,

within 7 days, appoint an acting manager to perform the duties, and shall appoint a successor with the above specified qualifications forthwith.

(3) The town manager shall be appointed without regard to party or political designation. He shall be a citizen of the United States of America. No person holding elective public office in the town with the exception of town meeting member shall, within 3 years of holding the office, be eligible for appointment as town manager.

(4) The town manager shall not hold any elective public office nor engage in any other business or occupation during his tenure except for part-time consultative or teaching duties, directly related to the profession of municipal management and with the specific consent of the selectmen. The town manager may be appointed for successive terms of office.

(5) Before entering upon the duties of his office, the town manager shall be sworn, in the presence of a majority of the selectmen, to the faithful and impartial performance thereof by the town clerk or a justice of the peace.

(b) *Acting Town Manager.* The town manager may designate, subject to the approval of the selectmen, by means of a letter filed with the town clerk, a suitable person to perform his duties during his temporary absence or disability. If the town manager fails to make the appointment, or the person so appointed fails to serve, the selectmen may appoint a suitable person to perform the duties. In the event of any vacancy in the office of town manager or the suspension of the town manager, the selectmen shall, within 7 days, appoint an acting manager to perform the duties.

(c) *Removal of the Manager.* The selectmen may suspend or remove the town manager by the affirmative vote of a majority of the full membership of the board.

Section 20B. *Powers and Duties of the Manager.* The town manager shall be the chief executive officer of the town. In addition to other powers and duties provided for in this charter, the town manager shall have the following powers and duties:

(1) The town manager shall supervise, either directly or through a person or persons appointed by him in accordance with this charter, all department managers, except the school department managers. The town manager shall be responsible for the efficient administration of all departments except the school department. The town manager shall not, however, exercise any control over the discretionary power vested by statute in any board, committee, commission or officer.

(2) The town manager, consistent with this charter, the General Laws, and town by-law, may, with the approval of elected boards having jurisdiction over affected departments, where applicable, and with the approval of the selectmen after a public hearing held by the selectmen for that purpose, reorganize, consolidate or abolish departments under his supervision, and establish such new departments as he considers necessary. With the approval, the town manager may transfer the duties and powers, and, so far as is consistent with the use for which the funds were voted by the town, transfer the appropriation of one department to another.

(3) The town manager shall have jurisdiction over the rental and use of all town property, except school property, and shall be responsible for the maintenance and repair of all town buildings, including school buildings and grounds. The town manager shall be responsible for the preparation of plans and supervision of all work on existing and new buildings, including work on school buildings, unless otherwise assigned by the town meeting to a permanent building committee. Plans for the construction or improvement of school buildings or property shall be subject to the approval of the school committee.

(4) The town manager shall be the purchasing agent for the town and shall award all contracts for all departments and activities of the town with the exception of the school department.

(5) Subject to the approval of the board of selectmen, and with the oversight of the personnel board, as outlined below, the town manager shall adopt rules and regulations establishing a personnel system. The personnel system shall make use of modern concepts of personnel management and shall include, but not be limited to, the following elements: (i) a method of administration; (ii) personnel policies indicating the rights, obligations and benefits of employees; (iii) a classification plan; (iv) a compensation plan; (v) a method of recruiting and selecting employees based on merit principles; (vi) a centralized record keeping system; (vii) disciplinary and grievance procedures; (viii) a professional development and training program; and (ix) other elements that are deemed necessary. All town agencies and positions shall be subject to the rules and regulations adopted under this section, excluding employees of the school department, and as otherwise provided under chapter 150E of the General Laws.

Personnel policies referenced in clause (ii), or changes to such policies, shall not be submitted to the board of selectmen without the prior review and approval of the personnel board. Classification plans or compensation plan referenced in clauses (iii) or (iv), or changes to such plans, shall not be submitted to the board of selectmen for approval until as the town manager has submitted the plan or plan revision to the personnel board for review and comment and, provided the comments are made within 15 days of submission, has provided written response to any comment made by the personnel board. In all other aspects of the personnel system, the town manager shall confer with the personnel board.

(6) The town manager shall fix the compensation of all town employees except those under the jurisdiction of the school committee within the limits established by appropriation and subject to chapter 150E of the General Laws.

(7) The town manager shall negotiate and administer all collective bargaining agreements with employee organizations representing town employees other than employees of the school department, pertaining to wages and other terms and conditions of employment, in accordance with chapter 150E of the General Laws; and such agreements, other than agreements with employee organizations representing school department employees, shall be subject to the approval of the board of selectmen. The town manager may, with the approval of the board of selectmen, employ special counsel to assist in the performance of the foregoing duties. The town manager or his designee shall participate in the deliberations

of the school committee in collective bargaining with employee organizations representing school department employees, as provided in chapter 150E of the General Laws.

(8) The town manager shall keep records of the office of town manager and shall render as often as may be required by the board of selectmen a report of all operations during the period reported on.

(9) The town manager shall keep the board of selectmen advised as to the needs of the town and shall recommend to the board of selectmen for adoption measures requiring action by them or by the town as considered necessary or expedient by the town manager.

(10) The town manager shall be responsible for the implementation of town meeting votes and shall report annually in writing to the town meeting on the status of prior town meeting votes on which implementation is not complete except matters as relate to the schools.

(11) The town manager shall administer, either directly or through a person or persons appointed by him in accordance with this charter, all provisions of general and special laws applicable to said town, and by-laws and votes of the town, and all rules and regulations made by the selectmen except matters as relate to the schools.

(12) The town manager shall report to the selectmen and the finance committee as to the financial condition of the town.

(13) The town manager shall have access to all town books and papers for information necessary for the proper performance of his duties, and may, without notice, cause the affairs of any department or activity under his control, or the conduct of any officer or employee thereof, to be examined.

(14) The town manager shall be accessible and available for consultation to chairs of boards, committees and commissions of the town, whether appointed or elected, and shall make accessible and available to them such data and records of his office as may be requested in connection with their official duties.

(15) The town manager shall perform such other duties consistent with his office as may be required of him by the by-laws or vote of the town or by the vote of the selectmen.

(16) The town manager shall be the chief fiscal officer of the town. Warrants for the payment of town funds prepared by the town accountant, in accordance with section 56 of chapter 41 of the General Laws, shall be submitted to the town manager. The approval of the warrant by the town manager, or in his absence the acting town manager, shall be sufficient authority to authorize payment by the town treasurer, but the selectmen shall approve all warrants in the event of the absence of the town manager or acting town manager, or a vacancy in the office of town manager.

(17) Whenever any payroll, bill or other claim against the town is presented to the town manager, he shall, if the same seems to him to be of doubtful validity, excessive in amount, or otherwise contrary to the interests of the town, immediately investigate the facts and determine what, if any, payment should be made. Pending the investigation and determination by the town manager, payment shall be withheld.

**Section 20C. *Estimate of Capital Expenditures.*** All boards, departments, committees, commissions and officers of the town shall annually, at the request of the town manager, submit to him in writing a detailed estimate of the capital expenditures, as defined by by-law, required for the efficient and proper conduct of their respective departments and offices for the ensuing fiscal year and the ensuing 4 year period. The town manager, after consultation with the board of selectmen, shall submit in writing to the board of selectmen a careful, detailed estimate of the recommended capital expenditures for the aforesaid periods, showing specifically the amount necessary to be provided for each office, department and activity and a statement of the amounts required to meet the debt service requirements or other indebtedness of the town. The selectmen shall transmit a copy of the capital budget to the finance committee along with the board of selectmen's recommendations relative thereto. The calendar dates on or before which the capital budget is to be submitted and transmitted shall be specified by by-law.

**SECTION 3.** Said chapter 403 is hereby further amended by striking out section 23 and inserting in place thereof the following section:-

**Section 23. *Director of Public Works.*** The town manager shall appoint a director of public works, who shall administer, under the supervision of the town manager, the departments of the town under the control of the selectmen as they may designate. He shall be responsible for the efficient administration of all departments within the scope of his duty, and shall hold office subject to the will of the town manager, consistent with subsection (c) of section 20. He shall be specially fitted by education, training and experience to perform the duties of the office, and may or may not be a resident of the town. During his tenure, he shall hold no elective public office or other public appointive office, nor shall he be engaged in any other business or occupation. He shall, subject to the approval of the town manager, appoint assistants, agents and employees as the performance of the duties of the various departments under his supervision may require, and may with like approval remove them. He shall keep records of the doings of his office and shall have charge of and shall preserve, arrange and index so as to be readily accessible to the public all plans, surveys, field notes, records, documents and inventories connected with engineering operations of the town, and render to the town manager, as often as he may require, a report of all operations under his control during the period reported upon; and annually, or from time to time as required by the town manager, he shall make a synopsis of all the reports for publication. He shall keep the town manager fully advised as to the needs of the town within the scope of his duties, and shall furnish to the town manager a carefully prepared and detailed estimate in writing of the appropriations required during the ensuing fiscal year for the proper conduct of all departments of the town under his supervision.

**SECTION 4.** Section 25 of said chapter 403 is hereby amended by striking out, in line 7, the words "said board" and inserting in place thereof the following words:- the town manager.

**SECTION 5.** Said chapter 403 is hereby further amended by striking out section 30 and inserting in place thereof the following section:-

*Section 30. Sewer Contracts.* All contracts made for the purposes of sections 24 to 31, inclusive, shall be made in the name of the town and shall be signed by the town manager. No contract shall be made, or obligation incurred, hereunder for said purposes in excess of the amount of money appropriated by the town therefor.

**SECTION 6.** Sections 6 and 7 of this act shall take effect upon its passage. Sections 1 to 5, inclusive, shall take effect 185 days following acceptance by a majority of the registered voters of the town voting at the election specified in section 7, but not otherwise.

**SECTION 7.** The state secretary shall place on the official ballot for the state election to be held on November 2, 2004 in the town of Needham the following question: "Shall an act passed by the general court in the year 2004 entitled, 'An Act Relative To The Charter Of The Town Of Needham,' be accepted?", followed by the summary required by section 58A of chapter 54 of the General Laws, which the town counsel shall ensure that the state secretary receives not later than September 3, 2004.

Approved July 15, 2004.

**Chapter 177. AN ACT RELATIVE TO THE PUBLIC DISCLOSURE OF OWNERSHIP OF A CEMETERY CORPORATION.**

*Be it enacted, etc., as follows:*

**SECTION 1.** Section 1A of chapter 114 of the General Laws, as appearing in the 2002 Official Edition, is hereby amended by adding the following paragraph:-

Nothing in this section shall affect or modify the liability of any person subject to this section for financial misconduct or fraud in the use of the assets of the corporation.

**SECTION 2.** Said chapter 114 is hereby further amended by inserting after section 2 the following section:-

Section 2A. A cemetery corporation organized under this chapter or created by special act or charter shall disclose to its clients whether an owner, director or trustee of the cemetery corporation owns 10 per cent or more of a business that sells products or services to the cemetery corporation of which he is owner, director or trustee. The information shall be available for review by the public during the business hours of the cemetery at the cemetery's place of business. Whoever violates this section shall be punished by a fine of \$50 for each day of the violation.

**SECTION 3.** Said chapter 114 is hereby further amended by inserting after section 5B the following section:-

Section 5C. The corporation and its officers shall owe a fiduciary duty to a contributor to the trust fund, his heirs and legal representatives to hold and expend the funds strictly consistent with the purposes of section 5. A contributor to the trust fund, his heirs

and legal representatives who were required to invest in the trust fund as a condition of purchasing a right of burial shall have all rights and protections of chapter 110A.

Approved July 15, 2004.

## **Chapter 178. AN ACT RELATIVE TO BUSINESS CORPORATIONS.**

*Whereas*, The deferred operation of this act would tend to defeat its purpose, which is to make forthwith changes in certain business corporations, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

*Be it enacted, etc., as follows:*

**SECTION 1.** Section 39L of chapter 30 of the General Laws, as appearing in the 2002 Official Edition, is hereby amended by striking out clause (1) and inserting in place thereof the following clause:-

(1) shall not enter into a contract for the work with, and shall not approve as a subcontractor furnishing labor and materials for a part of the work, a foreign corporation which has not filed with the awarding authority a certificate of the state secretary stating that the corporation has complied with requirements of section 15.03 of subdivision A of Part 15 of chapter 156D and the date of compliance, and further has filed all annual reports required by section 16.22 of subdivision B of Part 16 of said chapter 156D .

**SECTION 2.** Clause Sixteenth of section 5 of chapter 59 of the General Laws, as so appearing, is hereby amended by striking out paragraph 4 and inserting in place thereof the following paragraph:-

(4) Exemption under this clause shall not extend to a corporation subject to section 15.01 of subdivision A of Part 15 of chapter 156D, if the corporation has failed to deliver the certificate required by section 15.03 of said subdivision A of said Part 15 of said chapter 156D.

**SECTION 3.** Clause Sixteenth of said section 5 of said chapter 59, as so appearing, is hereby amended by striking out the second paragraph and inserting in place thereof the following paragraph:-

Exemption under this clause shall not extend to an entity subject to section 48 of chapter 156C , if the entity has failed to comply with said section 48.

**SECTION 4.** Subsection (a) of section 83 of chapter 62C of the General Laws, as so appearing, is hereby amended by striking out the second sentence and inserting in place thereof the following sentence:- The form shall be treated as a report for the purposes of section 16.22 of subdivision B of Part 16 of chapter 156D and sections 7 and 8 of chapter 167 and as part of the annual report for purposes of section 26 of chapter 175, and the report or amended report shall be maintained by the state secretary as a public record; but, thereport or amended report shall be available for public inspection only after the state secretary has

expunged the name of the taxpayer and the location, including street address, of the taxpayer's principal office as required by subsection (n).

**SECTION 5.** Section 16A of chapter 109 of the General Laws, as so appearing, is hereby amended by striking out subsection (a) and inserting in place thereof the following subsection:-

(a) As used in this section, other business entity shall mean a corporation to which section 17.01 of chapter 156D applies, a foreign corporation, as defined in subsection (a) of section 1.40 of said chapter 156D, a professional corporation and a foreign professional corporation, each as defined in section 2 of chapter 156A, an association or trust as defined in section 1 of chapter 182, a limited liability company, whether domestic or foreign, as defined in section 2 of chapter 156C, and a partnership, whether general, registered limited liability or limited and whether domestic or foreign as defined, respectively, in sections 2 and 6 of chapter 108A and section 1 of chapter 109, but excluding a domestic limited partnership.

**SECTION 6.** Subsection (e) of said section 16A of said chapter 109, as so appearing, is hereby further amended by striking out clause (7) and inserting in place thereof the following clause:-

(7) If the resulting or surviving entity is not an entity organized under the laws of the commonwealth, a statement that the resulting or surviving entity agrees that, if the entity does not continuously maintain an agent for service of process in the commonwealth, to appoint irrevocably the state secretary and his successor in office to be its true and lawful attorney upon whom all lawful process in any such action, suit or proceeding in the commonwealth may be served in the manner set forth in subsections (d), (e), and (g) of section 15.10 of Part 15 of chapter 156D relative to foreign corporations; except that the plaintiff in the action, suit or proceeding shall furnish the state secretary with the address specified in the certificate of consolidation or merger provided for in this section and the state secretary shall notify the surviving or resulting entity at that address.

**SECTION 7.** Section 48 of said chapter 109, as so appearing, is hereby amended by striking out the second sentence and inserting in place thereof the following sentence:- A general partner or other agent of a foreign limited partnership shall be subject to the liabilities, and shall have the defenses, with respect to the foreign limited partnership, as officers, directors and other agents of a foreign corporation have under section 15.11 of subdivision A of Part 15 of chapter 156D.

**SECTION 8.** Section 49 of said chapter 109, as so appearing, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:- A foreign limited partnership shall be considered to be doing business in the commonwealth for the purposes of this section if it would be considered to be doing business in the commonwealth for the purpose of section 15.01 of subdivision A of Part 15 of chapter 156D if it were a foreign corporation.

**SECTION 9.** Section 50 of said chapter 109, as so appearing, is hereby amended by striking out the last sentence and inserting in place thereof the following sentence:- The secretary of state shall keep the records and have the duties with respect to foreign limited

partnerships as are provided in subsection 6 of section 15.03 of subdivision A of Part 15 of chapter 156D relative to foreign corporations.

**SECTION 10.** Section 55 of said chapter 109, as so appearing, is hereby amended by striking out subsection (a) and inserting in place thereof the following subsection:-

(a) A foreign limited partnership doing business in the commonwealth which fails to register with the secretary of state shall be subject to subdivision A of section 15.02 of chapter 156D relative to foreign corporations. .

**SECTION 11.** Subsection (b) of said section 55 of said chapter 109, as so appearing, is hereby amended by striking out the last sentence and inserting in place thereof the following sentence:- Every foreign limited partnership doing business in the commonwealth without having registered as prescribed in this section and every foreign limited partnership which shall have withdrawn from the commonwealth shall be considered to have appointed the secretary of state to be its true and lawful attorney upon whom all lawful process in any action or proceeding in the commonwealth may be served in the manner set forth in subsections (d), (e), (f) and (g) of section 15.10 of Part 15 of chapter 156D relative to foreign corporations.

**SECTION 12.** Section 8 of chapter 155 of the General Laws, as so appearing, is hereby amended by striking out the last sentence and inserting in place thereof the following sentence:- This section shall apply to foreign corporations, as defined in subsection (a) of section 1.40 of subdivision D of Part 1 of chapter 156D, as well as to corporations included within section 1.

**SECTION 13.** Section 9A of said chapter 155, as so appearing, is hereby amended by striking out the first paragraph and inserting in place thereof the following paragraph:-

Any person intending to organize a corporation under the General Laws, or any corporation organized under the General Laws intending to change its name, or any foreign corporation, as defined in subsection (a) of section 1.40 of subdivision D of Part 1 of chapter 156D, intending to make application for a certificate of authority to transact business in the commonwealth, or any foreign corporation, as so defined, authorized to transact business in the commonwealth and intending to change its name, or any person intending to organize and incorporate a foreign corporation, as so defined, and intending to have the corporation make application for a certificate of authority to transact business in the commonwealth may reserve the exclusive right to the use of a corporate name.

**SECTION 14.** Subsection (2) of section 46A of chapter 156 of the General Laws, as so appearing, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:- A corporation owning all the stock of a corporation which is engaged in a business similar or incidental to the business in which the owning corporation is authorized to engage or owning all the stock of a foreign corporation qualified to transact business in this commonwealth under subdivision A of Part 15 of chapter 156D and is engaged in a similar or incidental business may, if the laws of the state where the foreign corporation is incorporated permit by vote of a majority of the board of directors of the owning

corporation merge with the corporation whose stock it owns.

**SECTION 15.** Paragraph (2) of clause (b) of section 46D of said chapter 156 of the General Laws, as so appearing, is hereby amended by striking out the first paragraph and inserting in place thereof the following paragraph:-

The consolidated corporation shall agree that it may be sued in this commonwealth for any prior obligation of any constituent domestic corporation, any prior obligations of any constituent foreign corporation qualified under subdivision A of Part 15 of chapter 156D and any obligation thereafter incurred by the consolidated corporation, including the obligation established by section 46E of this chapter, so long as any liability remains outstanding against the corporation in this commonwealth, and it shall irrevocably appoint the secretary as its agent to accept service of process in the same manner as provided in said subdivision A of said Part 15 of said chapter 156D.

**SECTION 16.** Section 4 of chapter 156A of the General Laws, as so appearing, is hereby amended by striking out subsection (a) and inserting in place thereof the following subsection:-

(a) Chapter 156D shall apply to professional corporations and which shall enjoy the powers and privileges, and be subject to the duties, restrictions and liabilities of corporations organized under said chapter, except where inconsistent with this chapter.

**SECTION 17.** Section 6 of said chapter 156A, as so appearing, is hereby amended by striking out subsection (a) and inserting in place thereof the following subsection:-

(a) Except as otherwise provided by law or regulation, the personal liability of a shareholder of a professional corporation organized under this chapter shall be no greater in any respect than that of a shareholder of a corporation organized under chapter 156D.

**SECTION 18.** The first paragraph of section 7 of said chapter 156A, as so appearing, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:- One or more individuals, each of whom is licensed to perform a professional service, may organize a professional corporation by complying with Part 2 of chapter 156D.

**SECTION 19.** Subsection (a) of section 13 of said chapter 156A, as so appearing, is hereby amended by striking out clause (3) and inserting in place thereof the following clause:-

(3) the corporation shall be merged into, consolidated with or changed by articles of amendment into a corporation organized pursuant to chapter 156D in accordance with section 14.

**SECTION 20.** Said chapter 156A is hereby further amended by striking out section 14, as so appearing, and inserting in place thereof the following section:

Section 14. A professional corporation which has ceased to render any professional services under this chapter or which is permitted to render professional services as a business corporation organized under chapter 156D may change its status by merging into or consolidating with the business corporation or by filing articles of amendment to change its

name, where necessary, and purposes to those of the business corporation.

**SECTION 21.** Section 15 of said chapter 156A, as so appearing, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:- If action required by section 12 or 13 is not taken within the prescribed time period, or it shall be established that a professional corporation has failed to comply with this chapter, the state secretary may dissolve the corporation in accordance with section 14.21 of subdivision B of Part 14 of chapter 156D.

**SECTION 22.** Subsection (b) of section 17 of said chapter 156A, as so appearing, is hereby amended by striking out clause (1) and inserting in place thereof the following clause:-

(1) the name of the corporation meets the requirements of this chapter and section 15.06 of subdivision A of Part 15 of chapter 156D.

**SECTION 23.** Subsection (c) of section 17 of said chapter 156A, as so appearing, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:- A foreign professional corporation shall register to practice in the commonwealth by filing with the state secretary the certificate and evidence of legal existence from the jurisdiction of incorporation required by section 15.03 of subdivision A of Part 15 of chapter 156D.

**SECTION 24.** Said section 17 of said chapter 156A, as so appearing, is hereby further amended by striking out subsection (d) and inserting in place thereof the following subsection:-

(d) Every foreign professional corporation, except as otherwise provided in this chapter, shall be subject to section 15.02, subsection (c) of 15.03, section 15.04, and section 15.06 to 15.11, inclusive of subdivision A of Part 15 of chapter 156D, and sections 15.20, 15.30, 15.31 and 15.32 of subdivision B of said Part 15 of said chapter 156D.

**SECTION 25.** Section 18 of said chapter 156A, as so appearing, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:- The annual report of a professional corporation or a foreign professional corporation shall, in addition to the information required by section 16.22 of subdivision B of Part 16 of chapter 156D, shall list the names and addresses of all shareholders and shall contain a certification that the shareholders, or all of the partners of a shareholder which is a general partnership are duly licensed to render 1 or more professional services for which the corporation was organized or are professional corporations authorized to render the professional services.

**SECTION 26.** Section 49 of chapter 156B of the General Laws, as so appearing, is hereby amended by striking out the second sentence and inserting in place thereof the following sentence:- Such resident agent shall be either an individual who is a resident of and has a business address in the commonwealth, a corporation organized under the laws of the commonwealth or a corporation organized under the laws of any other state of the United States which has complied with section 15.03 of subdivision A of Part 15 of chapter 156D and which has an office in the commonwealth.

**SECTION 27.** Subsection (b) of section 79 of said chapter 156B, as so appearing, is hereby amended by striking out the last sentence and inserting in place thereof the following sentence:- If the resulting or surviving corporation is to be governed by the laws of another state the resulting or surviving corporation shall agree that it may be sued in this commonwealth for any prior obligation of any constituent domestic corporation, any prior obligation of any constituent foreign corporation qualified under Part 15 of chapter 156D, and any obligation thereafter incurred by the resulting or surviving corporation, including the obligation established by section 85, so long as any liability remains outstanding against the corporation in this commonwealth, and it shall irrevocably appoint the secretary as its agent to accept service of process in any action for the enforcement of any such obligation, including taxes, in the same manner as provided in subsections (d), (e), (f) and (g) of section 15.10 of subdivision A of Part 15 of chapter 156D.

**SECTION 28.** Subsection (b) of section 82 of said chapter 156B, as so appearing, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:- Unless the merger is abandoned pursuant to the terms of the directors vote adopted under subsection (a), articles of merger shall be submitted to the state secretary which shall set forth the vote of the directors, shall state the effective date of the merger, and if the parent corporation is organized under the laws of another state shall contain an agreement by such corporation that it may be sued in this commonwealth for any prior obligation of the Massachusetts corporation or corporations with which it has merged and any obligation thereafter incurred by the parent corporation, including the obligation created by subsection (e), so long as any liability remains outstanding against the parent corporation in this commonwealth, and it shall irrevocably appoint the state secretary as its agent to accept service of process in any action for the enforcement of the obligation, including taxes, in the same manner set forth in subsections (d), (e), (f) and (g) of section 15 of subdivision A of Part 15 of chapter 156D.

**SECTION 29.** Section 47 of chapter 156C of the General Laws, as so appearing, is hereby amended by striking out the second sentence and inserting in place thereof the following sentence:- A member, manager or other agent of a foreign limited liability company shall be subject to the liabilities, and shall have the defenses, with respect to the limited liability company, as officers, directors and other agents of a foreign corporation have under section 15.11 of subdivision A of Part 15 of chapter 156D.

**SECTION 30.** Section 48 of said chapter 156C, as so appearing, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:- A foreign limited liability company shall be considered to be doing business in the commonwealth for the purpose of this section if it would be considered to be doing business in the commonwealth for the purpose of Part 15 of subdivision A of chapter 156D if it were a foreign corporation.

**SECTION 31.** Section 49 of said chapter 156C, as so appearing, is hereby amended by striking out the last sentence and inserting in place thereof the following sentence:- The state secretary shall keep the records and have the other duties with respect to foreign limited

liability companies as provided in subsection (c) of section 15.03 of subdivision A of Part 15 of chapter 156D.

**SECTION 32.** Section 51 of said chapter 156C, as so appearing, is hereby amended by striking out the second sentence and inserting in place thereof the following sentence:- The resident agent shall be either an individual who is a resident of and has a business address in the commonwealth, a corporation organized under the laws of the commonwealth, or a corporation organized under the laws of any other state of the United States, which has complied with of section 15.03 of subdivision A of Part 15 of chapter 156D and which has an office in the commonwealth.

**SECTION 33.** Section 59 of said chapter 156C, as amended by section 16 of chapter 127 of the acts of 2003, is hereby further amended by striking out subsection (a) and inserting in place thereof the following subsection:-

(a) As used in sections 59 to 63, inclusive, the words "other business entity" shall mean a corporation to which section 17.01 of Part 17 of chapter 156D applies, a professional corporation and a foreign professional corporation each as defined in section 2 of chapter 156A, a foreign corporation, an association or a trust, as defined in section 1 of chapter 182, a partnership whether general or limited and whether domestic or foreign, as defined, respectively, in section 6 of chapter 108A and section 1 of chapter 109, and a foreign limited liability company as defined in this chapter.

**SECTION 34.** Section 61(a) of said chapter 156C, as appearing in the 2002 Official Edition, is hereby amended by striking out clause (7) and inserting in place thereof the following clause:

(7) if the resulting or surviving entity is not an entity organized under the laws of the commonwealth, a statement that the resulting or surviving entity agrees that, if the entity does not continuously maintain an agent for service of process in the commonwealth, to appoint irrevocably the state secretary to be its true and lawful attorney upon whom all lawful process in any action or proceeding in the commonwealth may be served in the manner set forth in subsections (d), (e), (f) and (g) of section 15.10 of subdivision A of Part 15 of chapter 156D relative to foreign corporations.

**SECTION 35.** Section 1.25 of subdivision B of Part 1 of chapter 156D, as appearing in section 17 of chapter 127 of the acts of 2003, is hereby amended by striking out subsection (a) and inserting in place thereof the following subsection:-

(a) Upon receipt of a document for filing, except an annual report filed pursuant to section 16.22, the secretary of state shall record the date and time of receipt on or with the document and, if the person submitting the document or his representative so requests, furnish evidence of the date and time of receipt to the person or his representative in a form as the secretary of state shall determine.

**SECTION 36.** Said subdivision B of said Part 1 of said chapter 156D, as so appearing, is hereby further amended by striking out section 1.28 and inserting in place thereof the following section:-

**Section 1.28. CERTIFICATES REGARDING CORPORATIONS.** (a) Anyone may apply to the secretary of state to furnish a certificate of legal existence for a domestic corporation. A certificate of legal existence shall set forth:

- (1) the name of the corporation;
- (2) the date the corporation was organized under the laws of the commonwealth; and
- (3) that the corporation has legal existence so far as it appears in the records of the

state secretary.

(b) Anyone may apply to the secretary of state to furnish a certificate of good standing. A certificate of good standing shall set forth:

- (1) the name of the corporation;
- (2) the date the corporation was organized under the laws of the commonwealth;
- (3) that the corporation has filed all annual reports required by section 16.22 to be

filed by it and paid all fees due with respect to such reports;

(4) that no proceedings are pending under section 14.21 for the dissolution of the corporation;

- (5) that no articles of dissolution have been filed by the corporation; and

(6) that the corporation appears from the records of the state secretary to be in good standing.

(c) The secretary of state shall issue, upon request, such other certificates regarding facts of record in his office concerning corporations upon payment of the fees as may be specified in regulations promulgated by the commissioner of administration including, without limitation, certificates of merger, certificates of dissolution and certificates regarding the authority of a foreign corporation to do business in the commonwealth.

(d) The certificates may be relied upon as conclusive evidence of the facts stated therein.

**SECTION 37.** Section 6.25 of Part 6 of said chapter 156D, as so appearing, is hereby amended by striking out subsection (d) and inserting in place thereof the following subsection:-

(d) Each share certificate shall be signed either manually or in facsimile by 2 officers designated in the by-laws or by the board of directors and may bear the corporate seal or its facsimile.

**SECTION 38.** Section 9.25 of subdivision A of Part 9 of said chapter 156D, as so appearing, is hereby amended by striking out subsection (c) and inserting in place thereof the following subsection:-

(c) If the domestication of a foreign business corporation into the commonwealth is abandoned in accordance with the laws of the foreign jurisdiction after articles of domestication have been filed with the secretary of state but before their effective date, a statement that the domestication has been abandoned, executed by an officer or other duly authorized representative shall be delivered to the secretary of state for filing. The statement shall take effect upon filing and the domestication shall be considered abandoned and shall not become effective.

**SECTION 39.** Section 14.21 of subdivision B of Part 14 of said chapter 156D, as so appearing, is hereby amended by striking out subsections (a) and (c) and inserting in place thereof the following 2 subsections:-

(a) If the secretary of state determines that one or more grounds exist under section 14.20 for dissolving a corporation, he shall notify the corporation's registered agent of his determination. The notice shall be in writing and mailed postage prepaid to the corporation's registered office, or if the registered agent consents, sent by electronic mail to an electronic mail address furnished by the agent for the purpose.

(b) If the corporation does not correct each ground for dissolution or demonstrate to the reasonable satisfaction of the secretary of state that each ground determined by the secretary of state does not exist within 90 days after notice is given, the secretary of state shall administratively dissolve the corporation.

**SECTION 40.** Subsection (c) of section 15.01 of subdivision A of Part 15 of said chapter 156D, as so appearing, is hereby amended by striking out clauses (7) and (8).

**SECTION 41.** Section 15.31 of subdivision C of Part 15 of said chapter 156D, as so appearing, is hereby amended by striking out subsection (a) and inserting in place thereof the following subsection:-

(a) If the secretary of state determines that 1 or more grounds exist under section 15.30 for revocation of authority of a foreign corporation to transact business in the commonwealth, he shall notify the corporation's registered agent of his determination. The notice shall be in writing and mailed postage prepaid to the corporation's registered office or if the registered agent consents, sent by electronic mail to an electronic address furnished by the agent for the purpose.

**SECTION 42.** Subsection (a) of section 16.22 of subdivision B of Part 16 of said chapter 156D, as so appearing, is hereby amended by striking out clause (5) and inserting in place thereof the following clause:-

(5) A brief description of its activities in the commonwealth.

**SECTION 43.** Said subsection (a) of said section 16.22 of subdivision B of said Part 16 of chapter 156D, as so appearing, is hereby further amended by striking out clause (8) and inserting in place thereof the following clause:-

(8) the fiscal year of the corporation.

**SECTION 44.** Said section 16.22 of said subdivision B of said Part 16 of said chapter 156D, as so appearing is hereby further amended by striking out subsection (d).

**SECTION 45.** Subsection (b) of section 10A of chapter 180 of the General Laws, as appearing in 2002 Official Edition, is hereby amended by striking out paragraph (2) and inserting in place thereof the following paragraph:-

(2) If the resulting or surviving corporation is to be governed by the laws of a state other than the commonwealth, the agreement of consolidation or merger shall comply with the applicable laws of the state, and the resulting or surviving corporation shall agree in the articles of consolidation or merger that it may be sued in this commonwealth for any prior

---

**Chap. 178**

obligations of any constituent domestic corporation, any prior obligation of any constituent foreign corporation qualified under subdivision A of Part 15 of chapter 156D, or any other obligation thereafter incurred by the resulting or surviving corporation, so long as any liability remains outstanding against the corporation in this commonwealth, and it shall irrevocably appoint the state secretary as its agent to accept service of process in any action for the enforcement of the obligation, including taxes, in the manner as provided in subsections (d), (e), (f) and (g) of subdivision A of Part 15 of said chapter 156D.

**SECTION 46.** Chapter 223 of the General Laws, as so appearing, is hereby amended by striking out section 38 and inserting in place thereof the following section:-

Section 38. In an action against a foreign corporation, except an insurance company, which has a usual place of business in the commonwealth, or with or without such usual place of business, is engaged in or soliciting business in the commonwealth, permanently or temporarily, service may be made in accordance with the preceding section relative to service on domestic corporations in general, instead of upon the state secretary under section 15.10 of subdivision A of Part 15 of chapter 156D.

**SECTION 47.** Chapter 127 of the acts of 2003 is hereby amended by striking out section 23.

**SECTION 48.** Said chapter 127 is hereby further amended by striking out section 24 and inserting in place thereof the following section:-

Section 24. This act shall take effect on July 1, 2004, except that paragraph 6 of subsection (b) of section 4.01 of Part 4 of chapter 156D of the General Laws, inserted by section 17 shall take effect on September 1, 2004.

**SECTION 49.** This act shall take effect as of July 1, 2004.

Approved July 15, 2004.

## **Chapter 179. AN ACT PROVIDING FOR AN ANIMAL CONTROL COMMISSION IN THE TOWN OF LANCASTER.**

*Be it enacted, etc., as follows:*

**SECTION 1.** Notwithstanding any general or special law to the contrary, there shall be in the town of Lancaster an animal control commission. The commission shall have all the powers and duties vested in the board of selectmen pursuant to the General Laws as they relate to animal control in the town. The commission may promulgate rules and regulations for the care and control of animals and facilities consistent with state and local law. The town may, by by-law, add to the duties of the commission.

**SECTION 2.** The animal control commission shall consist of not less than 5 nor more than 7 members who shall be appointed by the board of selectmen. When the commission is first established, the terms of members shall be for such length not exceeding

---

## Chap. 179

3 years and so arranged that the terms of approximately  $\frac{1}{3}$  of the members will expire each year and their successors shall be appointed for terms of 3 years. A vacancy occurring other than by the expiration of a term shall be filled for the unexpired term in the same manner as an original appointment. Any member may be removed for cause by the appointing authority after a public hearing. Before entering upon official duties, an appointee to the commission shall be sworn to the faithful performance of his duties.

**SECTION 3.** This act shall take effect upon its passage.

Approved July 15, 2004.

## **Chapter 180. AN ACT RELATIVE TO THE APPOINTMENT OF RETIRED POLICE OFFICERS IN THE CITY OF FITCHBURG.**

*Be it enacted, etc., as follows:*

**SECTION 1.** The mayor of the city of Fitchburg may appoint, as he deems necessary, retired Fitchburg police officers as special police officers for the purpose of performing police details or any police duties arising therefrom or during the course of police detail work, regardless of whether or not related to the detail work. The retired police officers shall have been regular Fitchburg police officers and retired based on superannuation. The special police officers shall be subject to the same maximum age restriction as applied to regular police officers under chapter 32 of the General Laws. A special police officer shall pass a medical examination, by a physician or other certified professional chosen by the city, to determine that he is capable of performing the essential duties of a special police officer, the cost of which shall be borne by the special police officer, prior to performing police details.

**SECTION 2.** Special police officers appointed under this act shall not be subject to chapter 31 of the General Laws or to section 99A of chapter 41 of the General Laws.

**SECTION 3.** Special police officers shall, when performing the duties under section 1, have the same power to make arrests and perform other police functions as do regular police officers of the city of Fitchburg.

**SECTION 4.** Special police officers shall be appointed for an indefinite term, subject to removal by the mayor at any time with 14 days written notice. Upon request, the mayor shall provide the reasons for removal in writing.

**SECTION 5.** Special police officers shall also be subject to the rules and regulations, policies and procedures and requirements of the mayor and the chief of police of the city of Fitchburg, including restrictions on the type of detail assignments, requirements regarding medical examinations to determine continuing capability to perform the duties of a special police officer, requirements for training, requirements for firearms licensing and qualifications and requirements regarding uniforms and equipment. Special police officers

shall not be subject to section 96B of chapter 41 of the General Laws.

**SECTION 6.** Special police officers shall be sworn before the city clerk of the city of Fitchburg who shall keep a record of all such appointments.

**SECTION 7.** Special police officers appointed under this act shall be subject to section 100 and section 111F of chapter 41 of the General Laws. The amount payable under said section 111F of said chapter 41 shall be calculated by averaging the amount earned over the prior 52 weeks as a special police officer working police details, or averaged over such lesser period of time for any officer designated as special officers less than 52 weeks prior to the incapacity. In no event shall payment under said section 111F of said chapter 41 exceed, in any calendar year, the limitation on earning contained in paragraph (b) of section 91 of chapter 32 of the General Laws. Payment under said section 111F of said chapter 41 shall terminate when a special police officer reaches the age of 65. In the event the age limitation applicable to regular police officers serving a town is increased from the current 65 years of age, the termination of benefits under said section 111F of said chapter 41, as provided herein to special police officers, shall terminate at such a higher age limit, but in no event shall the benefits extend beyond the age of 70 for any special police officer. Special police officers appointed under this act shall not be subject to section 85H of said chapter 32, nor eligible for any benefits pursuant to that section.

**SECTION 8.** Appointment as a special police officer shall entitle any individual appointed as such to assignment to any detail.

**SECTION 9.** Retired Fitchburg police officers, serving as special police officers under this act shall be subject to the limitations on hours worked and on payments to retired town employees under paragraph (b) of section 91 of chapter 32 of the General Laws.

**SECTION 10.** This act shall take effect upon its passage.

Approved July 15, 2004.

## **Chapter 181. AN ACT RELATIVE TO EYE EXAMINATIONS FOR CHILDREN.**

*Be it enacted, etc., as follows:*

The first paragraph of section 57 of chapter 71 of the General Laws, as appearing in the 2002 Official Edition, is hereby amended by inserting after the penultimate sentence the following 2 sentences:- Upon entering kindergarten or within 30 days of the start of the school year, the parent or guardian of each child shall present to school health personnel certification that the child within the previous 12 months has passed a vision screening conducted by personnel approved by the department of public health and trained in vision screening techniques to be developed by the department of public health in consultation with the department of education. For children who fail to pass the vision screening and for children diagnosed with neurodevelopmental delay, proof of a comprehensive eye examination

---

## **Chap. 181**

performed by a licensed optometrist or ophthalmologist chosen by the child's parent or guardian indicating any pertinent diagnosis, treatment, prognosis, recommendation and evidence of follow-up treatment, if necessary, shall be provided.

Approved July 15, 2004.

## **Chapter 182. AN ACT RELATIVE TO PUBLIC CHARITIES.**

*Be it enacted, etc., as follows:*

The second paragraph of section 8F of chapter 12 of the General Laws, as appearing in the 2002 Official Edition, is hereby amended by striking out the fourth sentence and inserting in place thereof the following sentence:- A public charity which received not more than \$500,000 in gross support and revenue during the fiscal year covered by its report may in lieu of an audited financial statement submit a financial statement accompanied by an independent certified public accountant's review report as that report is defined by the American Institute of Certified Public Accountants.

Approved July 15, 2004.

## **Chapter 183. AN ACT AUTHORIZING THE DIVISION OF CAPITAL ASSET MANAGEMENT AND MAINTENANCE TO CONVEY CERTAIN LAND TO THE TOWN OF WHITMAN.**

*Whereas*, The deferred operation of this act would tend to defeat its purpose, which is to forthwith authorize the conveyance of certain land to the town of Whitman, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

*Be it enacted, etc., as follows:*

**SECTION 1.** The commissioner of the division of capital asset management and maintenance may convey to the town of Whitman, for nominal consideration notwithstanding sections 40F to 40J, inclusive, of chapter 7 of the General Laws or any other general or special law or rule or regulation to the contrary, by deed, a parcel of state-owned land located in the town, formerly under the care and control of the armory commission, for use by the town as a public safety facility. The parcel, as shown on a deed dated February 12, 1957, and recorded in the Plymouth county registry of deeds Book 2555 page 28, was conveyed from inhabitants of the town of Whitman to the commonwealth.

**SECTION 2.** The town of Whitman shall pay for all costs of the appraisal, survey and deed preparation for the conveyance of the property authorized by this act, as deemed

necessary by the commissioner of capital asset management and maintenance.

**SECTION 3.** If the property ceases to be used at any time for the purpose described in section 1, or is used for any purpose other than the purpose stated therein, the property, upon notice by the commissioner of the division of capital asset management and maintenance, shall revert to the care and control of the commonwealth and any further disposition of the property shall be subject to sections 40E to 40J, inclusive, of chapter 7 of the General Laws, and shall require the prior approval of the general court.

*The foregoing was laid before the Governor on the seventh day of July, 2004 and after ten days had the force of law as prescribed by the Constitution as it was not returned by him to the branch in which it originated with his objections thereto within that time.*

**Chapter 184. AN ACT ESTABLISHING A SICK LEAVE BANK FOR ROSA A. MCPHERSON, AN EMPLOYEE OF THE TRIAL COURT.**

*Whereas*, The deferred operation of this act would tend to defeat its purpose, which is forthwith to establish a sick leave bank for Rosa A. McPherson, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

*Be it enacted, etc., as follows:*

Notwithstanding any general or special law, rule or regulation to the contrary, the trial court shall establish a sick leave bank for Rosa A. McPherson, an employee of the West Roxbury trial court. Any employee of said court may voluntarily contribute 1 or more of his sick, personal or vacation days to said sick leave bank for use by Rosa A. McPherson. Whenever Rosa A. McPherson terminates her employment with the trial court or requests to dissolve said sick leave bank, the balance of sick leave shall be transferred to the trial court paid leave bank.

*The foregoing was laid before the Governor on the seventh day of July, 2004 and after ten days had the force of law as prescribed by the Constitution as it was not returned by him to the branch in which it originated with his objections thereto within that time.*

**Chapter 185. AN ACT RELATIVE TO PROVISIONAL EMPLOYEES IN THE CITY OF WORCESTER.**

*Be it enacted, etc., as follows:*

Notwithstanding any general or special law to the contrary, the personnel administrator shall

---

**Chap. 185**

certify any active employee, who served in a civil service position in the city of Worcester as a provisional or provisional promotion employee for at least 6 months before January 1, 2003, to permanent civil service status in that position.

*The foregoing was laid before the Governor on the sixth day of July, 2004 and after ten days had the force of law as prescribed by the Constitution as it was not returned by him to the branch in which it originated with his objections thereto within that time.*

**Chapter 186. AN ACT PROVIDING THAT CERTAIN EMPLOYEES OF THE TAUNTON MUNICIPAL LIGHTING PLANT OF THE CITY OF TAUNTON BE UNDER THE CIVIL SERVICE LAW.**

*Be it enacted, etc., as follows:*

Notwithstanding chapter 31 of the General Laws or any other general or special law or rule to the contrary, the following provisional employees of the municipal lighting plant of the city of Taunton shall be granted permanent civil service status in their positions after a performance review by an appointing authority: William Strojny, systems accountant, Linda Linhares, systems accountant, Jeffrey Bagge, meter reader, and Dennis Perkins, meter reader.

*The foregoing was laid before the Governor on the eighth day of July, 2004 and after ten days had the force of law as prescribed by the Constitution as it was not returned by him to the branch in which it originated with his objections thereto within that time.*

**Chapter 187. AN ACT CLARIFYING THE FUNDING PERIOD FOR CERTAIN APPROPRIATIONS.**

*Be it enacted, etc., as follows:*

Chapter 149 of the acts of 2004 is hereby amended by striking out section 424 and inserting in place thereof the following section:-

Section 424. Section 423 shall take effect on June 30, 2006.

Approved July 19, 2004.

**Chapter 188. AN ACT RELATIVE TO MONIES RECEIVED FROM THE DISPOSITION OF CERTAIN SURPLUS PROPERTY.**

Whereas , The deferred operation of this act would tend to defeat its purpose, which is to dispose forthwith of money from certain surplus property, therefore it is hereby declared

---

**Chap. 188**

to be an emergency law, necessary for the immediate preservation of the public convenience.

*Be it enacted, etc., as follows:*

**SECTION 1.** Section 548 of chapter 26 of the acts of 2003 is hereby amended by striking out subsection (n) and inserting in place thereof the following subsection:-

(n) The commissioner shall deposit the first \$25,000,000 of the proceeds realized from property dispositions under this section into the General Fund. After the deposit into the General Fund of said \$25,000,000, the next \$25,000,000 realized from surplus property disposition under this section shall be deposited into the Smart Growth Housing Trust Fund established in section 35BB of chapter 10 of the General Laws. Any proceeds realized in excess of the foregoing amounts, shall be deposited into the Commonwealth Stabilization Fund, established in section 2H of chapter 29 of the General Laws.

**SECTION 2.** This act shall take effect as of July 1, 2004.

Approved July 19, 2004.

**Chapter 189. AN ACT PROVIDING FOR AN INVESTIGATION BY A SPECIAL COMMISSION RELATIVE TO THE EFFECTS OF OXYCONTIN AND OTHER DRUG USE.**

*Be it enacted, etc., as follows:*

**SECTION 1.** There shall be a special commission to study the impact and effects on youth of the abuse of OxyContin and other prescription and illicit drugs including, but not limited to, Duragesic, Klonopin, Methadone, Morphine, Vicodin, as well as their generic equivalents, and cocaine, heroin, GHB, and MDMA. The commission shall consist of 3 members appointed by the speaker of the house, including the house chair of the joint committee on health care, 3 members appointed by the senate president, including the senate chair of the joint committee on health care, the commissioner of mental health, the commissioner of public health drug control program and 3 persons to be appointed by the governor, all of whom shall be members of the medical and substance abuse treatment community with specialty experience in drug regulation, prescription, treatment and abuse. The commission shall study the prescription, dispensing, treatment and education with respect to those drugs and shall submit a report, including legislative recommendations, if any, to the clerk of the house of representatives who shall forward the same to the joint committee on health care and the house and senate committee on ways and means on or before April 1, 2005.

**SECTION 2.** This act shall take effect as of July 1, 2004.

Approved July 19, 2004.

---

**Chapter 190. AN ACT AUTHORIZING THE TOWN OF ROCKLAND TO ISSUE  
ADDITIONAL LICENSES FOR THE SALE OF ALL ALCOHOLIC  
BEVERAGES TO BE DRUNK ON THE PREMISES.**

*Be it enacted, etc., as follows:*

**SECTION 1.** Notwithstanding section 17 of chapter 138 of the General Laws or any other general or special law to the contrary, the licensing authority of the town of Rockland may issue 3 additional licenses for the sale of all alcoholic beverages to be drunk on the premises, pursuant to section 12 of chapter 138 of the General Laws, to establishments located in Hingham street in the town of Rockland. The licensing authority shall not approve the transfer of the licenses to any other locations.

**SECTION 2.** This act shall take effect upon its passage.

Approved July 19, 2004.

**Chapter 191. AN ACT RELATIVE TO DANGEROUS BUILDINGS.**

*Be it enacted, etc., as follows:*

Section 6 of chapter 143 of the General Laws, as appearing in the 2002 Official Edition, is hereby amended by adding the following sentence:- Upon such notice under either of the preceding sentences, the owner, lessee or mortgagee in possession shall furnish a floor plan of such building or other structure to the chiefs of the fire and police departments of the city or town.

Approved July 19, 2004.

**Chapter 192. AN ACT EXEMPTING THE POSITION OF POLICE CHIEF OF THE  
TOWN OF READING FROM THE CIVIL SERVICE LAW.**

*Be it enacted, etc., as follows:*

**SECTION 1.** The position of chief of police in the town of Reading shall be exempt from chapter 31 of the General Laws.

**SECTION 2.** Section 1 shall not impair the civil service status of any person holding the position of chief of police in the town on the effective date of this act.

**SECTION 3.** This act shall take effect as of July 1, 2005.

Approved July 19, 2004.

---

## **Chapter 193. AN ACT FURTHER REGULATING PUBLIC CONSTRUCTION IN THE COMMONWEALTH.**

Whereas, The deferred operation of this act would tend to defeat its purpose, which is forthwith to regulate further public construction in the commonwealth, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

*Be it enacted, etc., as follows:*

**SECTION 1.** Section 38A ½ of chapter 7 of the General Laws, as appearing in the 2002 Official Edition, is hereby amended by striking out the definition of "Public agency" and inserting in place thereof the following definition:-

"Public agency", a department, agency, board, commission, authority, or other instrumentality of the commonwealth or political subdivision of the commonwealth or two or more subdivisions thereof other than cities and towns, and any agency, unit, authority, or instrumentality thereof but not including the State College Building Authority or the University of Massachusetts Building Authority.

**SECTION 2.** Subparagraph (b) of section 38D of said chapter 7, as so appearing, is hereby amended by striking out clause (i) and inserting in place thereof the following clause:-

(i) a description of the project, including the specific designer services sought, the time period within which the project is to be completed, and, if available, the estimated construction cost;

**SECTION 3.** Section 38H of said chapter 7, as so appearing, is hereby amended by striking out subsection (i) and inserting in place thereof the following subsection:-

(i) Awarding authorities in cities and towns may allow a designer who conducted a feasibility study to continue with the design of a project; but, nothing herein shall prohibit the awarding authorities from commissioning, at the discretion of the awarding authorities, an independent review, by a knowledgeable and competent individual or business doing such work, of the feasibility of the designer's work to insure its reasonableness and its adequacy before allowing the designer to continue on the project.

**SECTION 4.** Subsection (a) of section 38K of said chapter 7, as so appearing, is hereby amended by striking out clause (ii) and inserting in place thereof the following clause:-

(ii) the establishment of uniform requirements of information to be submitted by all applicants, a uniform procedure for the evaluation of all applications to a group of not fewer than 3 finalists, the opportunity to be afforded equally to all finalists to provide additional information to or appear before the selection body, and a procedure for the submission of a fee proposal and the negotiation of fees between the awarding authority and the selected applicant with whom the fee is being negotiated consistent with the provisions of subsection (b) of section 38G;

**SECTION 5.** Subsection (b) of said section 38K of said chapter 7, as so appearing, is hereby amended by adding the following 3 sentences:- The board shall publish a standard designer selection form which shall be used by all cities, towns and public agencies not within the board's jurisdiction; but, before publishing the standard form, the board shall seek input from the cities, towns and other public agencies not within the board's jurisdiction. Any fee guidelines promulgated by the board shall be accompanied by a recommended basic scope of designer's services that shall reflect the work associated with the fee guidelines. From time to time, and no less frequently than every 3 years, the board shall review and revise the fee schedule based upon prevailing costs at the time of such review and revision.

**SECTION 6.** Said chapter 7 is hereby amended by striking out section 40N, as so appearing, and inserting in place thereof the following section:-

Section 40N. (a) The general court finds that (1) the Massachusetts commission against discrimination conducted hearings and investigations which documented a history of discrimination against minorities and women in the commonwealth; (2) and in 1994, the executive office of transportation and construction produced a disparity study which documented a history of discrimination against minority and women owned businesses, in which the commonwealth's agencies were participants; (3) this discrimination against minorities and women currently affects the use of minority and women owned businesses in state contracting; (4) the commonwealth has a compelling interest in promoting the use of minority owned business and women owned businesses through the use of the available and qualified pool of minority and women owned businesses; (5) it is the policy of the commonwealth to promote equality in the market and, to that end, to encourage full participation of minority and women owned businesses in all areas of state contracting, including contracts for construction and design services.

(b) As used in this section, the following words shall, unless the context clearly requires otherwise, have the following meanings:-

"Affirmative marketing program", a program of race and gender conscious goals to promote equality in, and to encourage the participation of, minority-owned businesses and women-owned businesses in contracts for capital facility projects and state assisted building projects;

"Capital facility project", shall have the same meaning as found in section 39A of chapter 7 when the project is under the control of the division of capital asset management and maintenance;

"Design services", any of the following services provided by any designer, programmer, or construction manager in connection with any public building project:

- (i) preparation of master plans, studies, surveys, soil tests, cost estimates or programs;
- (ii) preparation of drawings, plans, or specifications, including, but not limited to, schematic drawings, preliminary plans and specifications, working plans and specifications or other administration of construction contracts documents;
- (iii) supervision or administration of a construction contract;
- (iv) construction management or scheduling.

"Minority", a person with a permanent residence in the United States who is American Indian, Black, Cape Verdean, Western Hemisphere Hispanic, Aleut, Eskimo, or Asian.

"Minority-owned business", any contracting or subcontracting business, or businesses that supply the contractors and subcontractors which is beneficially owned by one or more minority persons as follows:

(i) the business must be at least 51 per cent owned by minority persons; in the case of a corporation having more than one class of stockholders, the ownership requirement must be met as to each class of stock;

(ii) the minority owners shall demonstrate that they have dominant control over management;

(iii) the business has not been established solely for the purpose of taking advantage of a special program which has been developed to assist minority businesses;

(iv) in the case of a joint venture between a minority business meeting the requirements of clauses (i) to (iii), inclusive, and a non-minority business, the joint venture shall be found to be a minority business if the minority business meeting the requirements of said clauses (i) to (iii), inclusive, shall have more than one-half control over management of the project bid upon and shall have the right to receive more than one-half of the profits deriving from that project.

"State assisted building project", a construction project undertaken by a political subdivision of the commonwealth or 2 or more subdivisions thereof for the planning, acquisition, design, construction, demolition, installation, repair or maintenance of a capital facility and whose costs are paid for, reimbursed, grant funded, or otherwise supported, in whole or in part, by the commonwealth;

"State office of minority and women business assistance" or "SOMWBA", shall have the same meaning as found in section 40 of chapter 23A.

"Women-owned business", any contracting or subcontracting business which is beneficially owned by one or more women meeting the requirements set forth in clauses (1) to (4), inclusive, of the definition of minority business, except that the terms "women", "women owners", and "women-owned business", shall be substituted for the terms "minority" and "minority persons", "minority owners", and "minority business" appearing in the definition.

(c) The commissioner, in consultation with the director of the state office of minority and women business assistance, may establish an affirmative marketing program to ensure the fair participation of minority-owned and women-owned businesses on capital facility projects and state assisted building projects. The affirmative marketing program shall establish participation goals for minority-owned and women-owned business in the capital facility projects and state assisted building projects. The participation goals for minority-owned business and women-owned business shall be based upon the broadest and most inclusive pool of available minority-owned businesses and women-owned businesses interested in and capable of performing construction work and design services on the capital

facility projects, state funded building projects, and state assisted building projects; but, the commissioner may establish both statewide and regional participation goals based upon the availability of minority-owned businesses and women-owned businesses. The state office of minority and women business assistance, or its successor agency, shall create and maintain a current directory of certified minority-owned businesses and women-owned businesses which will serve as one source of information in determining the pool of available minority-owned businesses and women-owned businesses. The commissioner and the director of SOMWBA shall meet on a quarterly basis to determine the status of the implementation of the affirmative marketing program and what further steps both agencies consider necessary to achieve the purpose of this section.

(d) Not later than January 15 of each year, the commissioner, in consultation with the director of state office of minority and women business assistance, shall establish participation goals for minority-owned businesses and women-owned businesses. The participation goals established pursuant to this section shall apply to capital facility projects and state assisted building projects. The participation goals shall be expressed as overall annual program goals which shall be applicable to the total dollar amount of contracts awarded for construction work and design services on capital facility projects and state assisted building projects for the calendar year. The commissioner shall publish in the central register, established under section 20A of chapter 9, the participation goals for minority-owned businesses and for women-owned businesses on capital facility projects and state assisted building projects. The participation goals for minority owned businesses and women owned businesses shall remain in effect until revised participation goals are established and published pursuant to this paragraph. The participation goals for minority owned businesses and women owned businesses, developed before the effective date of this section, under any existing executive order and in effect as of the January preceding the effective date of this section shall remain in effect until January 15 of the following year. The participation goals for minority-owned businesses and women-owned businesses shall be revised as necessary every 2 years thereafter.

(e) The commissioner, in consultation with the director of the state office of minority and women business assistance, shall develop a written procedure by which a public agency may, for an individual capital facility project, adjust the participation goals for minority-owned business and women-owned business based upon the actual availability of minority-owned businesses and women-owned businesses, the geographic location of the project, the scope of work of the capital facility project, or other relevant factors.

(f) The commissioner shall develop a written, good faith efforts waiver procedure by which public agencies may determine, at any time before the award of a contract, that compliance with the goals is not feasible and by which public agencies may reduce or waive the goals for an individual contract.

(g) In connection with the affirmative marketing program, the state office of minority and women business assistance shall regularly review and, where necessary, modify its certi-

fication process to ensure that it operates effectively, and shall report annually to the secretary of the executive office of administration and finance regarding these matters.

(h) The commissioner shall be responsible for the overall management, monitoring, and enforcement of the affirmative marketing program, as the program relates to capital facility projects under the control of the division, established pursuant to this section. The commissioner may appoint a program director within the office of the commissioner to assist in program development, coordination and compliance. The program director shall also have responsibility for monitoring contract compliance within the division, addressing potential program violations and coordinating division enforcement activities with the state office of minority and women business assistance and the attorney general.

(i) The commissioner shall by March 15 of each year submit to the joint committee on state administration, the senate committee on ways and means, the house committee on ways and means, the clerk of the house, and the clerk of the senate a report on the performance of the division's affirmative marketing program for the preceding year. The report shall, at a minimum, show the name and address of each such minority owned business and women owned business, its designation as a minority-owned or women-owned business, the contract or subcontract price, a description of the work performed on the contract by class of work, and project type, and shall show separately the total number of contracts awarded to minority-owned and women-owned businesses as a percentage of the total number of contracts awarded and as a percentage of the total contract price.

(j) The commissioner shall promulgate regulations necessary to implement this section.

**SECTION 7.** Section 44 of chapter 23A of the General Laws, as so appearing, is hereby amended by adding the following subsection:-

(11) The director shall consult with the commissioner of the division of capital asset management and maintenance on the establishment of an affirmative marketing program pursuant to section 40N of chapter 7. The affirmative marketing program shall be established for the purpose of ensuring the fair participation of minority-owned and women-owned businesses on capital facility projects and state assisted building projects; provided that the affirmative marketing program shall establish participation goals for minority-owned and women-owned business on capital facility projects and state assisted building projects; provided further, that participation goals for minority-owned business and women-owned business shall be based upon the broadest and most inclusive pool of available minority-owned businesses and women-owned businesses interested in and capable of performing construction work and design services on such capital facility projects and state assisted building projects; and provided further, that the director and the commissioner of the division of capital asset management and maintenance shall meet on a quarterly basis to determine the status of implementation of the affirmative marketing program and what further steps both agencies deem necessary to achieve the purposes of section 40N of chapter 7 and this subsection. For purposes of this subsection, the terms "capital facility project" and

"state assisted building project" shall have the same meanings as found in section 40N of chapter 7.

In connection with the affirmative market program established pursuant to section 40N of chapter 7, the state office of minority and women business assistance shall regularly review and, where necessary, modify its certification process to ensure that it operates effectively, and shall report annually to the secretary of the executive office of administration and finance regarding these matters.

SOMWBA shall be responsible for the overall management, monitoring, and enforcement of the affirmative marketing program as it relates to minority owned businesses and women owned businesses participation on state assisted building projects. The director may appoint a program director to assist in program development, coordination of program operations and compliance with program goals and objectives. The program director shall also have responsibility for monitoring compliance regarding minority owned businesses and women owned businesses participation on state assisted building projects, addressing program violations and coordinating enforcement activities.

The director shall develop a written procedure by which participation goals, for an individual state assisted building project, may be adjusted for minority-owned businesses, women-owned businesses or both; but, the adjustment shall be based upon the actual availability of minority-owned businesses and women-owned businesses, the geographic location of the project, the scope of work of the capital facility project or other relevant factors.

The director shall develop a written waiver procedure by which, at any time before the award of a contract, it may be determined that compliance with the participation goals is not feasible and by which the participation goals on a state assisted building project may be reduced or waived. Waiver shall be granted only upon a showing that good faith efforts have been made to comply with the participation goals.

The director shall by March 15 of each year submit to the joint committee on state administration, the senate committee on ways and means, the house committee on ways and means, the clerk of the house, and the clerk of the senate a report on the performance of the affirmative marketing program for the preceding year. The report shall, at a minimum, show the name and address of each such minority owned business and women owned business, its designation as a minority-owned or women-owned business, the contract or subcontract price, a description of the work performed on the contract by class of work, and project type, and shall show separately the total number of contracts awarded to minority-owned and women-owned businesses as a percentage of the total number of contracts awarded and as a percentage of the total contract price.

The director shall promulgate regulations necessary to implement this subsection.

**SECTION 8.** Section 29F of chapter 29 of the General Laws is hereby amended by inserting after the word "causes", in line 52, as so appearing, the following words:- ; but, debarment shall be imposed in all causes where debarment is required by law.

**SECTION 9.** Section 39M of chapter 30 of the General Laws, as so appearing, is hereby amended by striking out, in lines 9 and 10, the words "ten thousand dollars but not more than twenty-five thousand dollars" and inserting in place thereof the following words:- \$25,000 but not more than \$100,000.

**SECTION 10.** Said section 39M of said chapter 30, as so appearing, is hereby amended by inserting after the word "from", in line 34, the following words:- an imminent security threat.

**SECTION 11.** Section 44A of chapter 149 of the General Laws, as so appearing, is hereby amended by striking out subsection (2) and inserting in place thereof the following subsection:-

(2)(A) Every contract for the construction, reconstruction, installation, demolition, maintenance or repair of any building by a public agency estimated to cost less than \$10,000 shall be awarded to the responsible person offering to perform the contract at the lowest price quotation; provided, however, that the public agency shall seek written price quotations from no fewer than 3 persons customarily providing the work for which the contract is being made available. When seeking written quotations the public agency shall make and keep a record of the names and addresses of all persons from whom price quotations were sought, the names of the persons submitting price quotations and the date and amount of each price quotation.

(B) Every contract for the construction, reconstruction, installation, demolition, maintenance or repair of any building estimated to cost not less than \$10,000 but not more than \$25,000 shall be awarded to the responsible person offering to perform the contract at the lowest price. The public agency shall make public notification of the contract and shall seek written responses from persons who customarily perform such work. The public notification shall include a scope of work statement that defines the work to be performed and provides potential responders with sufficient information regarding the objectives and requirements of the public agency and the time period within which the work is to be completed. For purposes of this subsection "public notification" shall include, but not necessarily be limited to, posting, no less than 2 weeks before the time specified in the notification for the receipt of responses, the contract and scope of work statement on the website of the public agency, on the COMPASS system, so-called, or in the central register established under section 20A of chapter 9, and in a conspicuous place in or near the primary office of the public agency.

(C) Every contract for the construction, reconstruction, installation, demolition, maintenance or repair of any building by a public agency estimated to cost not less than \$25,000 but not more than \$100,000, except for a pumping station to be constructed as an integral part of a sewer construction or water construction project bid under the provisions of section 39M of chapter 30, shall be awarded to the lowest responsible and eligible bidder on the basis of competitive bids publicly opened and read in accordance with the procedure set forth in said section 39M of said chapter 30. The term "pumping station" as used in this section shall mean a building or other structure which houses solely pumps and appurtenant

electrical and plumbing fixtures.

(D) Every contract for the construction, reconstruction, installation, demolition, maintenance or repair of any building by a public agency estimated to cost more than \$100,000, except for a pumping station to be constructed as an integral part of a sewer construction or water construction project bid under the provisions of section 39M of chapter 30, shall be awarded to the lowest responsible and eligible general bidder on the basis of competitive bids in accordance with the procedure set forth in section 44A to 44H, inclusive.

(E) When the general court has approved the use of an alternative mode of procurement of construction for a project pursuant to section 7E of chapter 29, the awarding authority responsible for procuring construction services for the project shall follow the policies and procedures of this section and of section 44B to 44H, inclusive, to the extent compatible with the mode of construction procurement selected.

(F) Notwithstanding paragraph (E), a public agency may undertake the procurement of modular buildings, in accordance with section 44E. A public agency may procure site work for modular buildings, including but not limited to, construction of foundations, installations, and attachment to external utilities, or any portion of site work, either in combination with the procurement of modular buildings pursuant to section 44E or on the basis of competitive bids pursuant to the paragraph (E). Notwithstanding the paragraph (E), a public agency may procure energy management services in accordance with section 11C of chapter 25A and regulations promulgated thereunder.

**SECTION 12.** Said section 44A of said chapter 149, as so appearing, is hereby amended by inserting after the word "property", in line 97, the following words:- or to alleviate an imminent security threat.

**SECTION 13.** Said chapter 149 is hereby further amended by inserting after section 44A the following section:-

Section 44A ½. (a) A public agency, before entering into a contract for design services pursuant to section 38D or section 38K of chapter 7, shall contract for the services of an owner's project manager to serve as the public agency's agent and consultant during the planning, design and implementation of a contract for the construction, reconstruction, installation, demolition, maintenance or repair of any building by the public agency estimated to cost not less than \$1,500,000. The duties of the owner's project manager shall include, but need not be limited to, providing advice and consultation with respect to design, value engineering, scope of the work, cost estimating, general contractor and subcontractor prequalification, pursuant to section 44D ½ or 44D ¾ when applicable, scheduling, construction and the selection, negotiation with and oversight of a designer and a general contractor for the project, ensuring the preparation of time schedules which shall serve as control standards for monitoring performance of the building project, and assisting in project evaluation including, but not limited to, written evaluations of the performance of the design professional, contractors, and subcontractors. For the purposes of this subsection, the term "owner's project manager" shall mean an individual, corporation, partnership, sole proprietorship, joint stock company, joint venture, or other entity engaged in the practice of

providing project management services for the construction and supervision of construction of buildings. The owner's project manager shall be a person who is registered by the commonwealth as an architect or professional engineer and who has at least 5 years experience in the construction and supervision of construction of buildings or a person, if not registered as an architect or professional engineer, who has at least 7 years experience in the construction and supervision of construction of buildings. The owner's project manager shall be independent of the designer, general contractor or any sub-contractor involved in the building project.

(b) Notwithstanding subsection (a), a public agency may assign an existing employee to serve as the owner's project manager, if that employee meets or exceeds the minimum qualifications as outlined in subsection (a) and has experience in the construction and supervision of construction of buildings of similar size and scope of complexity as the project to which he is assigned.

(c) The public agency shall use a qualifications based selection process to procure the services of an owner's project manager.

**SECTION 14.** Subsection (4) of section 44B of said chapter 149, as so appearing, is hereby amended by striking out the second sentence and inserting in place thereof the following sentence:- The bid deposits of sub-bidders not returned pursuant to the preceding sentence shall be returned within 5 days, Saturdays, Sundays, and legal holidays excluded, after the execution of the general contract; except that, if a selected sub-bidder fails to perform his agreement to execute a sub-contract with the general bidder selected as the general contractor, contingent upon the execution of the general contract, and, if required to do so pursuant to the prequalification process under section 44D ¾ or if requested to do so in the general bid by such general bidder, to furnish a performance and payment bond as stated in his sub-bid in accordance with subsection (2) of section 44F, the bid deposit of that sub-bidder shall become and be the property of the commonwealth or the governmental unit thereof to which it is payable, as liquidated damages; provided, that the amount of the bid deposit which becomes the property of the commonwealth or the governmental unit thereof shall not, in any event, exceed the difference between his sub-bid price and the sub-bid price of the next lowest responsible and eligible sub-bidder; and provided further that, in case of death, disability, bona fide clerical or mechanical error of a substantial nature, or other unforeseen circumstances affecting any such sub-bidder, his bid deposit shall be returned to him.

**SECTION 15.** Subsection (2) of section 44D of said chapter 149, as so appearing, is hereby amended by striking out the last sentence and inserting in place thereof the following sentence:- An application for a certificate of eligibility shall not be a public record as defined in section 7 of chapter 4.

**SECTION 16.** The first paragraph of subsection (7) of said section 44D of said chapter 149, as so appearing, is hereby amended by adding the following sentence:- Evaluations, including any responses submitted by the contractor, submitted to the division pursuant to this subsection shall be a public record as defined in section 7 of chapter 4.

**SECTION 17.** Said section 44D of said chapter 149, as so appearing is hereby amended by striking out subsection (8) and inserting in place thereof the following subsection:-

(8) With the exception of subsection (7), this section shall not apply to sub-bidders.

**SECTION 18.** Said section 44D of said chapter 149, as so appearing, is hereby amended by adding the following 7 subsections:-

(11)(i) Every sub-bid submitted for a contract subject to section 44A shall be accompanied by a copy of a certificate of eligibility issued by the commissioner showing that the sub-bidder has been certified to participate on public construction projects and to perform the work required. The sub-bid shall also be accompanied by an update statement in a form as the commissioner shall prescribe. A blank copy of the form shall be furnished by the awarding authority to every person or business entity requesting a copy. The update form shall provide space for information regarding all projects in which the sub-bidder participated on since the date of certification of eligibility, all projects which the sub-bidder currently has under contract including the percentage of work on such projects not completed, the names and qualifications of the personnel who will have supervisory responsibility for the performance of the contract, any significant changes in the sub-bidder's financial position or business organization since the date of certification of eligibility, and such other relevant information as the commissioner shall prescribe. The sub-bidder shall also include in its bid and update statement the list of completed construction projects submitted to the division in its most recent application for subcontractor certification. Any sub-bid submitted without the appropriate certificate and update statement shall be invalid.

(ii) The applicant shall certify under penalties of perjury at the conclusion of the application to bid that there have been no substantial changes in his financial position or business organization other than those changes noted within the application since the applicant's most recent update statement and that the sub-bid to be made will be in all respects bonafide, fair and made without collusion or fraud with any other person. As used in this subsection, "Person" shall mean any natural person, joint venture, partnership, corporation or other business or legal entity which sells materials, equipment or supplies used in or for, or engages in the performance of, the same or similar construction, reconstruction, installation, demolition, maintenance or repair work or any part thereof.

(12) The division of capital asset management and maintenance shall accept applications for subcontractor certification in a form as the commissioner shall prescribe, signed by the applicant under penalties of perjury, supplying information concerning the applicant's form of organization, its principals and key personnel; the applicant's experience on public and private construction projects over the past 3 years or on the 10 projects on which the applicant most recently performed work; all legal or administrative proceedings currently pending against the applicant or concluded adversely to the applicant within the past 3 years which relate to the procurement or performance of any public or private construction contract, the nature of any financial, personal or familial relationship to any public or private construction project owners listed on the application as constituting prior

construction experience; and such other information as the commissioner considers relevant to the determination of the applicant's qualifications and responsibility. The application shall include a statement of financial condition prepared by a certified public accountant which shall include, but not necessarily be limited to, information concerning the applicant's current assets and liabilities, bank and credit references, bonding company and maximum bonding capacity; and such other information as the commissioner shall consider relevant to an evaluation of the applicant's financial capacity and responsibility. The information contained in the application shall be current at the time of filing; but, the statement of financial condition shall pertain to the applicant's most recent, completed fiscal year. Any materially false statement in the application or update statement may, in the discretion of the awarding authority, result in termination of any contract awarded the applicant by the awarding authority, and shall constitute cause for debarring the applicant from future public work as provided in section 44C and shall subject the applicant to the punishments for perjury as set forth in section 1 of chapter 268. Applications for a certificate of eligibility shall not be a public record as defined in section 7 of chapter 4.

Every applicant shall pay to the division, upon filing his application for subcontractor certification, a nonrefundable fee to be determined annually by the commissioner of administration and finance under section 3B of chapter 7. The application fee shall not be less than \$100.

(13) The division of capital asset management and maintenance shall evaluate every applicant on the basis of the application and on relevant past performance according to procedures and criteria which the commissioner shall prescribe by regulations or guidelines. Such criteria shall include the record of the applicant's performance including, where available, written evaluations of the applicant's performance on public and private jobs over the past 3 years; the experience and qualifications of supervisory personnel; and any other relevant criteria that the commissioner may prescribe. The regulations and guidelines shall provide that, to the extent possible, the criteria considered shall be assigned separate designated numerical values and weights, and the applicant shall be assigned an overall numerical rating on the basis of all criteria. The applicant shall indicate among categories established by the commissioner the class of work for which certification is sought. The division of capital asset management and maintenance shall issue a certificate as warranted by the evaluation which shall be effective for 1 year from the date issued, showing the class of work on which the applicant is eligible to bid. The certificate shall include the number of prior construction projects evaluated by the division of capital asset management and maintenance, the contractor's average numerical value on those projects evaluated, and the number of projects given numerical values below a passing score, as defined by the division's regulations or guidelines, during each of the previous 3 years.

(14) The division of capital asset management and maintenance shall promptly notify an applicant of its preliminary determination regarding the conditions of the certification, or a denial of certification, or of decertification pursuant to this section, and the reasons therefor. An applicant aggrieved by the division's preliminary determination may, within 5

business days of receipt of notice, request copies of the information upon which the division relied in making its preliminary determination. Within 10 business days of receipt of notice, the applicant may submit further information to the division with a request for reconsideration. The division shall issue a final determination regarding an application for certification within 30 business days from the date of its preliminary determination, unless the applicant and the division agree to extend the 30-day period.

Any applicant aggrieved by the final determination of the division may appeal in writing to the attorney general within 5 business days of receipt of final notice thereof. Within 30 calendar days of the appeal, the attorney general shall investigate the matter and issue a written decision. The attorney general may institute and prosecute proceedings in the superior court to enforce this section on the same terms as set forth in section 44H. Following the decision by the attorney general, or failure to render a decision within the 30-day period, either the division or the applicant may seek remedies at law.

(15) The commissioner may, upon receipt of additional information regarding a subcontractor's qualifications, decertify a subcontractor. Upon that decision, the commissioner shall follow the procedures established by this section.

(16) The division of capital asset management and maintenance shall develop a standard subcontractor evaluation form that shall be completed by every public agency as defined in section 44A, upon completion of a building project under its control, and submitted to the division for the subcontractor's qualification file. The official from the public agency, or the owner's representative, shall certify that the information contained on the contractor evaluation form represents, to the best of his knowledge, a true and accurate analysis of the contractor's performance record on that contract. The public agency shall mail a copy of the subcontractor evaluation form to the subcontractor and the subcontractor shall, within 30 days, submit a written response to the division disputing any information contained in the evaluation form and setting forth any additional information concerning the building project or the oversight of the contract that may be relevant to the evaluation of the subcontractor's performance on the contract. The division shall attach any such response to the evaluation form for inclusion in the subcontractor's qualification file. No person shall be liable for any injury or loss to a subcontractor as a result of the completion of a subcontractor evaluation form as required by this section unless the individual completing the form has been found by a court of competent jurisdiction to have acted in a willful, wanton or reckless manner. If a suit is commenced by a subcontractor against a public employee, an owner's representative, an architect or an engineer who has completed a subcontractor evaluation form as required by this section seeking to recover damages resulting from injury caused by such evaluation, the public agency for whom the evaluation form was completed, or the commonwealth if the evaluation was completed for a state agency, shall provide for the legal representation of the employee, owner's representative, architect or engineer. The public agency, or the commonwealth, shall also indemnify the person from all financial loss and expenses, including but not limited to legal fees and filing

costs, in an amount not to exceed \$1,000,000. No person shall be indemnified for losses other than legal fees and filing costs under this section if the person is found by a court or a jury to have acted in a willful, wanton or reckless manner.

Evaluations, including any responses submitted by the contractor, submitted to the division pursuant to this subsection shall be a public record as defined in section 7 of chapter 4.

Any public agency that fails to complete and submit the subcontractor evaluation form, together with any written response by any subcontractor, to the division within 90 days of the completion of a project shall be ineligible to receive any public funds disbursed by the commonwealth for the purposes of any public buildings or public works projects.

(17) The commissioner may issue rules, regulations, orders, guidelines and policies considered necessary or expedient to effectuate the purposes of this section.

**SECTION 19.** Said chapter 149 is hereby further amended by inserting after section 44D the following 2 sections:-

Section 44D ½. (a) Notwithstanding section 44E, an awarding authority on contracts subject to section 44A and which are estimated to cost not less than \$10,000,000 shall prequalify general contractors to submit general bids in accordance with the provisions of subsections (a) to (j), inclusive; provided, that on such contracts subject to section 44A and which are estimated to cost not less than \$100,000 but not more than \$10,000,000, an awarding authority may elect to prequalify general contractors to submit general bids in accordance with subsections (a) to (j), inclusive. When prequalifying general contractors, the awarding authority shall initiate said prequalification through the solicitation of responses to a request for qualifications pursuant to subsection (d) of this section.

(b)(1) Notwithstanding subsection (a), the division of capital asset management and maintenance, the Massachusetts Port Authority, the Massachusetts Water Resources Authority, the Massachusetts State Colleges Building Authority, and the University of Massachusetts Building Authority, hereinafter referred to as "exempt agencies", shall not be subject to said subsection (a), but may elect to prequalify general contractors to submit general bids in accordance with the subsections (c) to (j), inclusive.

(2) For cases involving security sensitive information as defined by subclause (n) of clause Twenty-sixth of section 7 of chapter 4 and in order to maintain the confidentiality of security sensitive information, the awarding authority may, with prior approval of the commissioner, implement a prequalification process whereby the awarding authority selects a final list of a minimum of 3 general contractors who are eligible to submit bids and the awarding authority may award a contract to the lowest bidder amongst the final list of bidders. The commissioner of the division of capital asset management and maintenance shall promulgate regulations to implement this paragraph.

(c) Before issuing a request for qualifications, hereinafter referred to as RFQ, the awarding authority shall establish a prequalification committee for the purpose of reviewing and evaluating responses submitted in response to the RFQ issued pursuant to subsection (d). The prequalification committee shall be comprised of 1 representative of the designer and

3 representatives of the awarding authority. One of the representatives of the awarding authority shall be the owner's project manager if an owner's project manager is required on the building project pursuant to this section.

(d) When prequalifying general contractors, the awarding authority shall initiate the prequalification process through public notice of the building project and the solicitation of responses to the RFQ from general contractors. The public notice and solicitation shall include:

(1) the time and date for receipt of responses to the RFQ, the address of the office to which the responses are to be delivered, and the timeframe in which the public agency will respond to said responses;

(2) a general description of the project;

(3) the evaluation procedure and the criteria for the prequalification of general contractors, including the point rating system, and the schedule for the evaluation process;

(4) the anticipated schedule and estimated construction cost for the building project;

(5) a listing of the project team including the awarding authority, the designer, and awarding authority's owner's project manager, if applicable;

(6) a statement indicating that the RFQ will be used to prequalify general contractors who will be invited to submit a bid pursuant to section 44E;

(7) a prohibition against any unauthorized communication or contact with the public agency outside of official pre-bid meetings; and if desired,

(8) any limitation on the size and number of pages to be included in the response to the RFQ desired by the public agency.

(e) The awarding authority shall require interested general contractors to submit a statement of qualifications in response to the RFQ issued pursuant to subsection (d). The RFQ shall require only the information contained in paragraphs (1) to (4), inclusive, of this subsection, and shall identify the specific point allocation for each category and sub-category of information. Within each category of information, public agencies may use discretion in allocating points among the subcategories, consistent with the total points for the category.

(1) *Management Experience (50 points; minimum of 25 required for approval) :-*

(i) Business owners, The name, title, years with firm of the owner(s) of the business.

(ii) Management personnel, The names, title, education and construction experience, years with firm, and list of projects completed by all management personnel.

(iii) Similar project experience, The project name(s), description, original contract sum, final contract sum with explanation, and date completed of similar projects.

(iv) Terminations, A list of any projects on which the firm was terminated or failed to complete the work.

(v) Legal proceedings, A list of all legal or administrative proceedings currently pending against the general contractor or concluded adversely to the general contractor within the past 5 years which relate to the procurement or performance of any public or private construction contract.

(vi) Safety record, The 3-year history of the firm's workers' compensation experience modifier.

(vii) Compliance Record, Information on and evidence of evidence of the firm's compliance record with respect to minority business enterprise and women business enterprise inclusion goals and workforce inclusion goals, if applicable.

(2) *References (30 points; minimum of 15 required for approval) :*

(i) project references, References from owners and architects for all projects listed in clause (iii) of paragraph (1), including project names and the names of the owners and architects, with address, telephone and fax number, and contact person for each.

(ii) Credit references, A minimum of 5 credit references, including the telephone and fax number of contact person from key suppliers, vendors and banks.

(iii) Public project record, A list of all completed public building construction project or projects as defined in section 44A during the past 3 years with owner's name, address, telephone and fax number and contact person.

(3) *Capacity to Complete Projects (20 points; minimum of 10 required for approval):*

(i) Audited financial statement for the most recent fiscal year, provided that financial information submitted shall remain confidential and shall not be a public record under section 7 of chapter 4.

(ii) Revenue under contract for the next 3 fiscal years.

(4) Mandatory requirements, for which no points are assigned:

(i) A commitment letter for payment and performance bonds at 100 per cent of the estimated contract value from a surety company licensed to do business in the commonwealth and whose name appears on United States Treasury Department Circular 570.

(ii) A certificate of eligibility issued by the division of capital asset management and maintenance pursuant to section 44D, showing a capacity rating sufficient for the project, and an update statement.

The statement of qualifications shall be signed under pains and penalties of perjury.

(f) The public notice and solicitation required in subsection (d) shall be advertised in a newspaper of general circulation in the area in which the building project is located, in the central register pursuant to section 20A of chapter 9, and within the COMPASS system, so-called. The public notice and solicitation shall be given not less than 2 weeks before the deadline for submitting responses to the RFQ.

(g) The awarding authority shall not open the statement of qualifications publicly, but shall open them in the presence of 1 or more witnesses at the time specified in the RFQ. At the opening of responses, the awarding authority shall prepare a register of responders which shall include the name of each responder who submitted a statement of qualifications to said request for qualifications. The register of responders shall be open for public inspection. Upon completion of the evaluations, the contents of the statements of qualifications shall be open to the public. The financial information contained in the statements of qualifications

shall not be a public record as defined in section 7 of chapter 4.

(h) The prequalification committee established pursuant to subsection (c) shall evaluate each statement of qualifications using solely the criteria provided in the RFQ. Only general contractors achieving a minimum score of 70 shall be prequalified and invited to submit bids consistent with the section 44E. The prequalification committee shall select a minimum of 3 qualified general contractors to submit bids pursuant to said section 44E. Any general contractor invited to submit a bid pursuant to this subsection shall be subject to sections 44B and 44D.

A general contractor's score shall be made available to the general contractor upon request. The decision of the prequalification committee shall be final and shall not be subject to appeal except on grounds of fraud or collusion.

(i) Notwithstanding the foregoing subsections (a) to (h), inclusive, if the awarding authority qualifies fewer than 3 general contractors to submit bids pursuant to subsection (h) and the prequalification process was required pursuant to subsection (a), the awarding authority shall reject all responses and shall issue a new request for qualifications. If the awarding authority qualifies fewer than 3 general contractors to submit bids pursuant to subsection (h) and the prequalification process was initiated at the option of the awarding authority pursuant to subsection (a), the awarding authority may reject all responses and issue a new request for qualifications or may invite general bids pursuant to sections 44B to 44E, inclusive.

(j) Regulations and procedures shall be promulgated by the commissioner of the division of capital asset management and maintenance to implement this section and to ensure that the prequalification process set forth in subsections (a) to (i), inclusive, is sufficient, fair and consistent.

Section 44D ¾. (a) Notwithstanding section 44E, an awarding authority on contracts subject to section 44A which are estimated to cost not less than \$10,000,000 shall prequalify subcontractors to submit sub-bids in accordance with the provisions of subsections (a) to (j), inclusive; provided that, on contracts subject to section 44A which are estimated to cost not less than \$100,000 and not more than \$10,000,000, an awarding authority may elect to prequalify subcontractors to submit sub-bids in accordance with subsections (a) to (i), inclusive. The prequalification process shall be for all sub-bid classes of work listed in subsection (1) of section 44F that meet or exceed the threshold value for sub-bid work of said subsection (1) of said section 44F. When prequalifying the subcontractors, the awarding authority shall initiate the prequalification process through the solicitation of responses to a request for qualifications pursuant to subsection (d) of this section.

(b) Notwithstanding subsection (a), the division of capital asset management and maintenance, the Massachusetts Port Authority, the Massachusetts Water Resources Authority, the Massachusetts State Colleges Building Authority, and the University of Massachusetts Building Authority, hereinafter called exempt agencies, shall not be subject to said subsection (a), but may elect to prequalify subcontractors to submit sub-bids in accordance with subsections (c) to (j), inclusive.

(c) Before issuing a request for qualifications, hereinafter called RFQ, the awarding authority shall establish a prequalification committee for the purpose of reviewing and evaluating responses submitted in response to the RFQ issued pursuant to subsection (d). The prequalification committee shall be comprised of 1 representative of the designer and 3 representatives of the awarding authority. One of the representatives of the awarding authority shall be the owner's project manager if an owner's project manager is required on the building project pursuant to section 44A ½.

(d) When prequalifying subcontractors, the awarding authority shall initiate the prequalification process through public notice of the building project and the solicitation of responses to the RFQ from subcontractors; but, the public notice and solicitation shall include:

(1) the time and date for receipt of responses to the RFQ, the address of the office to which the responses are to be delivered, and the timeframe in which the public agency will respond to said responses;

(2) the evaluation procedure and the criteria for the prequalification of subcontractors, including the point rating system, and the schedule for the evaluation process;

(3) a general description of the project and the subcontractor's class of work;

(4) the anticipated schedule and estimated construction cost for the project;

(5) a listing of the project team including the awarding authority, designer, and awarding authority's owner's project manager, if applicable;

(6) a statement indicating that the RFQ will be used to prequalify subcontractors that will be invited to submit a bid pursuant to sections 44E and 44F;

(7) a prohibition against any unauthorized communication or contact with the awarding authority outside of official pre-bid meetings; and if desired,

(8) a limitation on the size and number of pages to be included in the response to the RFQ.

(e) The awarding authority shall require interested subcontractors to submit a statement of qualifications in response to the RFQ issued pursuant to subsection (d); provided that the RFQ shall require only the information contained in paragraphs (1) to (4), inclusive, of this paragraph, and shall identify the specific point allocation for each category and sub-category of information. Within each category of information, the awarding authorities may use discretion in allocating points among the subcategories, consistent with the total points for the category.

(1) *Management Experience (50 points; minimum of 25 required for approval):*

(i) Business owners, The name, title, years with firm of the owner(s) of the business.

(ii) Management personnel, The names, title, education and construction experience, years with firm, and list of projects completed by all management personnel.

(iii) Similar project experience, The project name(s), description, description of scope, original trade contract sum, final trade contract sum with explanation and date completed of similar projects.

(iv) Terminations, A list of any projects on which the subcontractor was terminated or failed to complete the work.

(v) Legal proceedings, A list of all legal or administrative proceedings currently pending against the subcontractor or concluded adversely to the subcontractor within the past 3 years which relate to the procurement or performance of any public or private construction contract. Legal proceedings shall not include any actions that primarily involve personal injury or workers' compensation claims, or where the sole cause of action involves the subcontractor's exercise of its rights for direct payment under section 39F of chapter 30.

(vi) Safety Record - The 3 year history of the subcontractor's workers' compensation experience modifier.

(2) *References (30 points; minimum of 15 required for approval) :*

(i) Project references, References from owners and architects for all projects listed in clause (iii) of paragraph (1) including project name, client's name, address, telephone and fax number, and contact person.

(ii) Credit references, A minimum of 5 credit references, including telephone and fax number of contact person from key suppliers, vendors and banks.

(iii) Public project record, A list of all completed public building construction project as defined in section 44A during past 3 years with client's name, address, telephone and fax number and contact person.

(3) *Capacity to Complete Projects (20 points; minimum of 10 required for approval):*

(i) Annual revenue for prior 3 fiscal years, provided that financial information submitted shall remain confidential and shall not be a public record under section 7 of chapter 4. There shall be no requirement for submission of financial statements.

(ii) Revenue under contract for the next 3 fiscal years.

(4) *Mandatory requirement, for which no points are assigned:*

A commitment letter for payment and performance bonds at 100 per cent of the estimated contract value from a surety company licensed to do business in the commonwealth and whose name appears on United States Treasury Department Circular 570.

The statement of qualifications shall be signed under pains and penalties of perjury.

(f) The public notice and solicitation required in subsection (d) shall be advertised in a newspaper of general circulation in the area in which the building project is located, in the central register pursuant to section 20A of chapter 9, and within the COMPASS system, so-called. The public notice and solicitation shall be given not less than 2 weeks before the deadline for submitting responses to the RFQ.

(g) The awarding authority shall not open the responses to the RFQ publicly, but shall open them in the presence of 1 or more witnesses at the time specified in the RFQ. At the opening of responses, the awarding authority shall prepare a register of responders which shall include the name of each responder who submitted a statement of qualifications to said request for qualifications. The register of responders shall be open for public inspection. Upon completion of the evaluation of the responses, the contents of the statements of qualifi-

cations shall be open to the public; but, the financial information contained in the statements of qualifications shall not be a public record as defined in section 7 of chapter 4.

(h) Upon receipt of the statement of qualifications submitted by subcontractors, the prequalification committee established pursuant to subsection (c) shall evaluate each statement of qualifications using solely the criteria provided in the RFQ pursuant to paragraph (e). Only subcontractors achieving a minimum score of 70 shall be prequalified and invited to submit bids consistent with the provisions of section 44E. The prequalification committee shall select a minimum of 3 qualified subcontractors to submit bids pursuant to said section 44E. The subcontractor invited to submit a bid pursuant to this subsection shall be subject to section 44B.

A subcontractor's score shall be made available to the subcontractor upon request. The decision of the prequalification committee shall be final and shall not be subject to appeal except on grounds of fraud or collusion.

(i) Notwithstanding the subsections (a) to (h), inclusive, if the awarding authority qualifies fewer than 3 subcontractors to submit bids pursuant to subsection (h) and the prequalification process was required pursuant to subsection (a), the awarding authority shall reject all responses and shall re-issue a request for qualifications pursuant to subsection (d). If the awarding authority qualifies fewer than three sub-contractors to submit bids pursuant to subsection (h) and the prequalification process was initiated at the option of the awarding authority pursuant to subsection (a), the awarding authority may reject all responses and issue a new request for qualifications or may invite sub-bids pursuant to sections 44B to 44E, inclusive.

(j) The commissioner of the division of capital asset management and maintenance, in conjunction with the inspector general, shall promulgate regulations and procedures to implement this section and to ensure that the prequalification process set forth in subsections (a) to (i), inclusive, is sufficient, fair and consistent.

**SECTION 20.** Section 44E of said chapter 149, as appearing in the 2002 Official Edition, is hereby amended by striking out subsection (1) and inserting in place thereof the following subsection:-

(1) Whenever general bids are invited for a contract subject to section 44A and whenever sub-bids are invited in connection with such a contract subject to subsection (1) of section 44F, the awarding authority shall prescribe 1 place for filing the general bids and 1 place for filing the sub-bids, which need not be the same place. Notwithstanding any general or special law, ordinance or by-law to the contrary, a bidder shall not be required to file a duplicate of his bid or sub-bid in any other place. For all projects where prequalification of general contractors is required, or where an awarding authority has elected to prequalify general contractors pursuant to subsection (a) of section 44D ½, an awarding authority shall request bids only from general contractors who have been so prequalified pursuant to subsections (a) to (j), inclusive, of section 44D ½. For all projects where prequalification of subcontractors is required, or where an awarding authority has elected to prequalify subcontractors pursuant to subsection (a) of section 44D ¾, an awarding authority

shall request bids only from subcontractors who have been so prequalified pursuant to subsections (a) to (j), inclusive, of section 44D ¾.

**SECTION 21.** Section 44F of said chapter 149 as so appearing, is hereby amended by striking out, in line 6, the words "ten thousand dollars" and inserting in place thereof the following figure:- \$20,000.

**SECTION 22.** Subsection (2) of said section 44F of said chapter 149, as so appearing, is hereby amended by striking out paragraph D and inserting in place thereof the following paragraph:-

(D) The undersigned agrees that, if he is selected as a sub-bidder, he will, within 5 days, Saturdays, Sundays and legal holidays excluded, after presentation of a subcontract by the general bidder selected as the general contractor, execute with such general bidder a subcontract in accordance with the terms of this sub-bid, and contingent upon the execution of the general contract, and, if requested so to do in the general bid by the general bidder, who shall pay the premiums therefor, or if prequalification is required pursuant to section 44D ¾, furnish a performance and payment bond of a surety company qualified to do business under the laws of the commonwealth and satisfactory to the awarding authority, in the full sum of the subcontract price.

**SECTION 23.** Subsection (3) of said section 44F of said chapter 149, as so appearing, is hereby amended by striking out the third paragraph and inserting in place thereof the following paragraph:-

A performance and payment bond furnished by the subcontractor, either pursuant to the requirements of the prequalification process as established in section 44D ¾ or at the request of a general contractor set forth in the general bid form, shall be for the benefit of the general contractor; shall secure the performance of the subcontract by the subcontractor; and shall indemnify and hold harmless the general contractor and the surety or sureties under the labor and materials or payment bond furnished by the general contractor to the awarding authority against (i) any and all loss and expense arising out of any and all claims in connection with the performance of the subcontract which would be required to be paid under the labor and materials or payment bond furnished by the general contractor to the awarding authority and (ii) attorneys' fees in the event that the subcontractor, after notice, fails to assume the defense of and defend such claims.

**SECTION 24.** Subsection (4) of said section 44F of said chapter 149, as so appearing, is hereby amended by striking out paragraph (c) and inserting in place thereof the following paragraph:-

(c) If a selected sub-bidder fails, within 5 days, Saturdays, Sundays and legal holidays excluded, after presentation of a subcontract by the general bidder selected as the general contractor, to perform his agreement to execute a subcontract in the form hereinafter set forth with such general bidder, contingent upon the execution of the general contract, and, if required to do so pursuant to the prequalification process under section 44D ¾ or if requested to do so by such general bidder in the general bid, to furnish a performance and payment bond as stated in his sub-bid such general bidder and the awarding authority shall

select, from the other sub-bids duly filed with the awarding authority for such sub-trade and not rejected under section 44H the lowest responsible and eligible sub-bidder at the amount named in his sub-bid as so filed against whose standing and ability the general contractor makes no objection, and the contract price shall be adjusted by the difference between the amount of the sub-bid and the amount of the sub-bid of the delinquent sub-bidder.

**SECTION 25.** Said chapter 149 is hereby further amended by striking out section 44H, as so appearing, and inserting in place thereof the following section:-

Section 44H. Except as otherwise provided by sections 44A to 44H, inclusive, and except for the consideration and determination after contract award as to whether an item is equal to an item named or described in the specifications for a contract, the attorney general or his designee shall enforce sections 44A to 44H, inclusive, of this chapter and section 39M of chapter 30, sections 38C to 38N, inclusive, of chapter 7, and chapter 149A. The attorney general shall have all the necessary powers to require compliance therewith including the power to institute and prosecute proceedings in the superior court to restrain the award of contracts and the performance of contracts in all cases where, after investigation of the facts, he has made a finding that the award or performance has resulted in violation, directly or indirectly, of said sections 44A to 44H, inclusive, or of said section 39M or of said sections 38C to 38N, inclusive, or of said chapter 149A, and he shall not be required to pay the clerk of the court any entry fee in connection with the institution of the proceeding.

**SECTION 26.** Said chapter 149 is hereby further amended by striking out section 148B, as so appearing, and inserting in place thereof the following section:-

Section 148B. (a) For the purpose of this chapter and chapter 151, an individual performing any service, except as authorized under this chapter, shall be considered to be an employee under those chapters unless:-

(1) the individual is free from control and direction in connection with the performance of the service, both under his contract for the performance of service and in fact; and

(2) the service is performed outside the usual course of the business of the employer; and,

(3) the individual is customarily engaged in an independently established trade, occupation, profession or business of the same nature as that involved in the service performed.

(b) The failure to withhold federal or state income taxes or to pay unemployment compensation contributions or workers compensation premiums with respect to an individual's wages shall not be considered in making a determination under this section.

(c) An individual's exercise of the option to secure workers' compensation insurance with a carrier as a sole proprietor or partnership pursuant to subsection (4) of section 1 of chapter 152 shall not be considered in making a determination under this section.

(d) Whoever fails to properly classify an individual as an employee according to this section and in so doing fails to comply, in any respect, with chapter 149, or section 1, 1A, 1B, 2B, 15 or 19 of chapter 151, or chapter 62B, shall be punished and shall be subject to all

of the criminal and civil remedies, including debarment, as provided in section 27C of this chapter. Whoever fails to properly classify an individual as an employee according to this section and in so doing violates chapter 152 shall be punished as provided in section 14 of said chapter 152 and shall be subject to all of the civil remedies, including debarment, provided in section 27C of this chapter. Any entity and the president and treasurer of a corporation and any officer or agent having the management of the corporation or entity shall be liable for violations of this section.

(e) Nothing in this section shall limit the availability of other remedies at law or in equity.

**SECTION 27.** The General Laws are hereby amended by inserting after chapter 149 the following chapter:-

**CHAPTER 149A.**

**PUBLIC CONSTRUCTION ALTERNATIVE DELIVERY METHODS.**

Section 1. For each contract for the construction, reconstruction, installation, demolition, maintenance or repair of any building estimated to cost not less than \$5,000,000, a public agency, as defined pursuant to section 44A of chapter 149, may elect to use the construction management at risk delivery method, pursuant to sections 1 to 13, inclusive. Prior to using the construction management at risk delivery method, the public agency shall obtain a notice to proceed from inspector general pursuant to section 4 of this chapter.

Section 2. As used in sections 1 to 9, inclusive, the following words shall have the following meanings unless indicated otherwise or unless the context in which they are used clearly requires a different meaning:-

"Building project", the construction, reconstruction, installation, demolition, maintenance or repair of any public building;

"Construction management at risk" or "Construction management at risk services" or "Construction management at risk delivery method", a construction method wherein a construction management at risk firm provides a range of preconstruction services and construction management services which may include cost estimation and consultation regarding the design of the building project, the preparation and coordination of bid packages, scheduling, cost control, and value engineering, acting as the general contractor during the construction, detailing the trade contractor scope of work, holding the trade contracts and other subcontracts, prequalifying and evaluating trade contractors and subcontractors, and providing management and construction services, all at a guaranteed maximum price, which shall represent the maximum amount to be paid by the public agency for the building project, including the cost of the work, the general conditions and the fee payable to the construction management at risk firm.

"Construction manager at risk" or "Construction management at risk firm", a sole proprietorship, partnership, corporation, or other legal entity that provides construction management at risk services;

"Designer", shall have the same meaning as found in section 38A of chapter 7, and shall be independent of the construction management at risk firm and the owner's project manager.

"Governing body", the person or group of persons who have the power to enter into and approve of a contract between a public agency and a construction management at risk firm;

"Guaranteed maximum price", or "GMP", the agreed total dollar amount for the construction management at risk services, including the cost of the work, the general conditions and the fees charged by the construction management at risk firm.

"Owner's project manager", an individual, corporation, partnership, sole proprietorship, joint stock company, joint venture, or other entity engaged to provide project management services on behalf of a public agency for the construction and supervision of construction of a building project. Any individual assigned by the owner's project manager to provide the project management services for the building project shall be a person who is registered by the commonwealth as an architect or professional engineer and has at least 5 years experience in the construction and supervision of construction of buildings of similar size and complexity; or a person who is not so registered and has at least 7 years experience in the construction and supervision of construction of buildings of similar size and complexity. A public agency may utilize a member or members of its staff as owner's project manager provided such staff meets the required qualifications. The owner's project manager shall be independent of the designer and the construction management at risk firm. "Public Agency", shall have the same meaning as found in section 44A of chapter 149;

"Two-phase selection process", a procurement process in which the first phase consists of creating a short list of prequalified firms as determined by responses to a request for qualifications and in which the second phase consists of inviting firms prequalified in the first phase to submit responses to a request for proposals or a request for bids.

Section 3. (a) Before procuring the services of a designer pursuant to subsection (b) and prior to submitting an application to use the construction management at risk delivery method pursuant to section 4, the public agency shall procure or otherwise employ the services of an owner's project manager pursuant to section 44A ½ of chapter 149. The owner's project manager may assist the public agency in the procurement of the designer.

(b) Before submitting an application to use the construction management at risk delivery method pursuant to section 4, the public agency shall procure the services of a designer for the building project. In procuring the services of a designer, the public agency shall do so in a manner consistent with sections 38A ½ to 39O, inclusive, of chapter 7. The designer procured by the public agency shall be independent of the owner's project manager and the construction management at risk firm.

Section 4. (a) Before undertaking a building project using construction management at-risk services, a public agency shall notify and submit a detailed application to proceed to the office of the inspector general. The detailed application shall conform to regulations and

procedures promulgated by the inspector general. In order to receive a notice to proceed from the office of the inspector general, the public agency shall demonstrate the following:-

(1) The public agency has authorization from its governing body to enter into a contract with a construction management at risk firm. The authorization shall include the results of any public vote if applicable.

(2) The public agency has the capacity, a plan and procedures in place and approved of by the governing body, where appropriate, to effectively procure and manage construction management at-risk services for the specific project and has retained the services of a qualified owner's project manager.

(3) The public agency has in place procedures to ensure fairness in competition, evaluation and reporting of results at every stage in the procurement process.

(4) The building project has an estimated construction value of \$5,000,000 or more.

(5) The public agency has determined that the use of construction management at-risk services is appropriate for the building project and states in writing the reasons for the determination.

(b) A public agency that meets all requirements established by the inspector general shall be issued a notice to proceed to use the construction management at risk delivery method for the construction of a building project. If the inspector general declines to issue a notice to proceed to a public agency, the inspector general shall provide in writing to the public agency the reason or reasons for the decision. A public agency not receiving a notice to proceed from the inspector general may re-submit a detailed application upon correcting or responding to the reason or reasons provided to the public agency by the inspector general. The inspector general shall review the resubmitted application and, if the application meets the requirements established by the inspector general, the inspector general shall issue a notice to proceed.

(c) Applications submitted to the inspector general for approval to use construction management at risk services shall be considered in a timely manner. All decisions shall be rendered by the inspector general to a public agency in not less than 60 days from the date the application is submitted to the inspector general.

(d) Notwithstanding subsection (a), the division of capital asset management and maintenance, the Massachusetts Port Authority, the Massachusetts Water Resources Authority, the Massachusetts State College Building Authority, and the University of Massachusetts Building Authority, hereinafter referred to as exempt agencies, shall not be subject to said subsection (a). Each exempt agency shall submit its procedures for the procurement and use of construction management at risk services to the inspector general, and so long as the inspector general determines that the procedures of an exempt agency comply with sections 1 to 10, inclusive, the inspector general shall approve the procedures and each exempt agency, so approved, may use the construction management at risk delivery method consistent with the procedures so approved on building projects. Each exempt agency shall annually submit its procedures to the inspector general for review and approval by the inspector general. If an exempt agency modify or amend the procedures so approved,

the exempt agency shall immediately submit the amended procedures to the inspector general for approval. The inspector general shall have 60 days from the time an exempt agency submits its procedures to approve or disapprove the procedures. An exempt agency whose procedures have been disapproved may correct the deficiency or deficiencies contained therein and re-submit the corrected procedures to the inspector general for review and approval. The inspector general shall conduct an expedited review of corrected procedures.

(e) A public agency after receiving a notice to proceed or an exempt agency after having its procedures approved may use the construction management at risk delivery method. The public agency or exempt agency shall procure a construction management at risk firm in accordance with a 2-phase process in a manner consistent with section 5.

Section 5. (a) The public agency shall utilize a 2-phase selection process as provided in subsection (c) of this section and sections 6 to 7, inclusive, for the selection of a construction management at risk firm with whom to enter into a contract to provide construction management at risk services. Each contract between a public agency and a construction management at risk firm shall be secured by a performance and payment bond in the full sum of the guaranteed maximum price by a surety company licensed to do business in the commonwealth and whose name appears on the United States Treasury Department Circular 570.

(b) Before issuing a request for qualifications, hereinafter called RFQ, the public agency shall establish a prequalification committee for the purpose of reviewing and evaluating responses submitted to the RFQ issued pursuant to subsection (c). The prequalification committee shall be comprised of 1 representative of the designer, the owner's project manager, and at least 2 representatives of the public agency.

(c) Phase 1 of the 2-phase selection process shall begin once the public agency gives public notice of the building project and solicits responses to an RFQ from construction management at risk firms; but, that the public notice and solicitation shall include:

(1) the time and date for receipt of responses to the RFQ, the address of the office to which the responses are to be delivered, and the timeframe in which the public agency will respond to said responses;

(2) a general description of the project including preliminary concept designs and key factors important to the final selection;

(3) the evaluation procedure and criteria pursuant to subsection (f), including any rating system;

(4) a specific description of the scope of services expected of the selected construction management at risk firm during both the design, pre-construction and construction phases of the project;

(5) a general description of the anticipated schedule and estimated construction cost for the building project;

(6) a listing of the project team including the public agency, the designer, and the public agency's owner's project manager;

(7) the criteria for the selection of the construction management at risk firm, including minimum experience, requirements for presentations, and the schedule for the selection process;

(8) a prohibition against any unauthorized communication or contact with the public agency outside of official pre-proposal meetings; and if desired,

(9) a limitation on the size and number of pages to be included in the response to the RFQ; and,

(10) a statement indicating that the RFQ will be used to prequalify construction management at risk firms that will be invited to submit a proposal in response to a request for proposal issued pursuant to section 6.

(d) The public agency shall require interested construction management at risk firms to submit a statement of qualifications in response to the RFQ issued pursuant to subsection (c). The statement of qualifications shall include, at a minimum, the following:

(1) a cover letter or executive summary detailing the key elements and factors that differentiate the firm from other responders;

(2) completion of a qualifications application similar in form to AIA Document A305, 1986 edition, listing general business information and financial capacity;

(3) a list of lawsuits and arbitrations to which the firm is a party in regard to construction contracts within the last 3 years, including a list of all convictions or fines for violations of state or federal law;

(4) submission of a project organization chart with specific information on key project personnel or consultants;

(5) submission of an audited financial statement for the most recent fiscal year and a letter from the surety company of the firm confirming the ability to provide performance and payment bonds for the building project under consideration; but, the financial information submitted shall remain confidential and shall not be a public record to the fullest extent permissible under the law;

(6) submission of information on the firm's safety record including its workers' compensation experience modifier for the prior 3 years;

(7) submission of information on and evidence of the firm's compliance record with respect to minority business enterprise and women business enterprise inclusion goals and workforce inclusion goals, if applicable;

(8) submission of information regarding the firm's experience on similar building projects including references from the owners and architects of the building projects;

(9) submission of information on the experience of the firm on similar projects that used the construction management at risk delivery method, including references from the owners and architects of such projects;

(10) submission of information on any projects where the firm was terminated, failed to complete the work, or paid liquidated damages;

(11) submission of specific examples of the firm's project management reports or other illustrations of the company's operating philosophy;

(12) a certificate of eligibility issued by the division of capital asset management and maintenance pursuant to section 44D of chapter 149, showing a capacity rating sufficient for the project, and an update statement; and

(13) any other relevant information that the public agency determines desirable.

The statement of qualifications shall be signed under pains and penalties of perjury.

(e) The public notice and solicitation required in subsection (c) shall be advertised in a newspaper of general circulation in the area in which the building project is located, in the central register pursuant to section 20A of chapter 9, and within the COMPASS system, so-called. The public notice and solicitation shall be given not less than 2 weeks before the deadline for submitting responses to the RFQ.

(f) Upon receipt of the statement of qualifications submitted by construction management at risk firms, the prequalification committee established pursuant to subsection (b), shall evaluate each statement of qualifications using the criteria as provided in the RFQ. Only construction management at risk firms achieving an acceptable rating as defined pursuant to clause (3) of subsection (c) will be selected to proceed to phase 2 of the 2-phase selection process and receive a request for proposals issued pursuant to section 6. The prequalification committee shall select a minimum of 3 qualified construction management at risk firms to receive the request for proposals. If the prequalification committee is not able to identify a minimum of 3 qualified construction management at risk firms, the public agency shall re-advertise the building project using the procedures herein, or may procure the building project pursuant to the provisions of sections 44A to 44J, inclusive, of chapter 149. The decision of the prequalification committee shall be final and shall not be subject to appeal except on grounds of fraud or collusion.

Section 6. (a) Before issuing a request for proposals, hereinafter referred to as RFP, the public agency shall establish a selection committee for the purpose of reviewing and evaluating responses submitted to the RFP issued pursuant to subsection (b). The selection committee shall be comprised of 1 representative of the designer, the owner's project manager, and at least 2 representatives of the public agency. Nothing herein shall prohibit the public agency from appointing the same individuals who served as the prequalification committee to serve as the selection committee.

(b) The public agency shall issue an RFP to each construction management at risk firm that has been prequalified to receive an RFP pursuant to this section. The RFP shall include each of the elements of the RFQ identified in subsection (c) of section 5 and further shall include:

(1) the date, time and place for submission of proposals;

(2) a clear description of the submission requirements including separate price and technical components;

(3) detailed information concerning the project scope including any preliminary design information, geotechnical reports, existing condition surveys and specifications;

(4) specific information on the project schedule including design deliverables, site availability and occupancy expectations;

(5) a detailed description of the scope of work and deliverables expected from the construction management at risk firm during the preconstruction phase;

(6) the minority business enterprise and women business enterprise inclusion goals and workforce inclusion goals for the building project;

(7) a clear description of the communication guidelines to be followed during the procurement process including any measures to assure that the selection process will be open and fair;

(8) the form of contract and general and supplemental conditions including any incentive provisions allowable under this statute and any damages for delay provisions;

(9) the budget for the project;

(10) a fully developed schedule of cost items listing the public agency's determination of what will be considered fee, cost of the work, and general condition items;

(11) specific information on the evaluation criteria including any point scale or measurement system;

(12) the timetable and process for establishing a guaranteed maximum price including status of design and limitations on the amount and use of contingency; and

(13) a list of the trade contractor classes of work to be required in the trade contractor prequalification plan.

(c) The RFP shall require the submission of separate price and technical components as part of the proposal submitted in response to the RFP.

(1) The price component shall include (i) the fee for preconstruction services with appropriate detail, (ii) the fee for construction services with explanation of the basis, and (iii) the estimated cost of general conditions with appropriate detail.

(2) The technical component shall include: (i) a detailed project approach, including preconstruction services, (ii) supplemental relevant project references, (iii) the project team members with position descriptions and relevant time commitments of said team members during the project, (iv) the construction management plan indicating approach to control of cost, schedule, quality, documents and claims; (v) preliminary definition of trade contractor and subcontractor bid packages and scopes of work, (vi) affidavit of prevailing wage compliance pursuant to sections 26 and 27 of chapter 149; (vii) a commitment letter from a surety company licensed to do business in the commonwealth and whose name appears on United States Treasury Department Circular 570 stating the surety's willingness to bond the building project in the full sum of the contract at 110 per cent of the budget for the building project, (viii) a technical challenges and solutions plan, and (ix) any qualifications or exceptions to the terms of the form of contract or supplemental conditions as included in the RFP.

(d) Upon receipt of the proposals to the RFP issued pursuant to subsection (b), the selection committee shall evaluate all proposals in accordance with the criteria included in the RFP; but, if the selection committee elects to conduct an interview with a construction management at risk firm who submits a proposal in response to the RFP, then the selection

committee shall conduct interviews with each construction management at risk firm that submits a proposal to said RFP. Based upon the evaluations of each proposal submitted by each construction management at risk firm, the selection committee shall rank the proposals submitted by the construction management at risk firms. The decision of the selection committee shall be final and not subject to appeal except on the grounds of fraud or collusion.

(e) The selection committee shall commence non-fee negotiations with the highest ranked construction management at risk firm. If the selection committee determines that negotiations with the highest ranked construction management at risk firm will not result in a contract acceptable to the public agency, the selection committee shall terminate negotiations with the highest ranked construction management at risk firm and shall commence negotiations with the next highest ranked construction management at risk firm. The process shall continue until the selection committee has reached an acceptable contract with one of the prequalified construction management at risk firms. The list and ranking of proposed construction management at risk firms shall be certified by the public agency and made available as a public record after the contract award.

Section 7. (a) Each contract for a building project procured pursuant to sections 1 to 9, inclusive, shall utilize a cost-plus not to exceed guaranteed maximum price form of contract in which the public agency shall be entitled to monitor and audit all project costs. The construction management at risk firm shall not be entitled to share in any savings between the final guaranteed maximum price figure and the final cost of the work including the fee of the construction management at risk firm, except that the public agency may include an incentive clause with the contract for various performance objectives; but, the incentive clause shall not include an incentive that exceeds 1 per cent of the estimated construction cost.

(b) In establishing the schedule and process for determining a guaranteed maximum price, the contract between the public agency and the construction management at risk firm shall comply with the following:

(1) The guaranteed maximum price shall be based on design documents which are no less developed than 60 per cent construction documents;

(2) The guaranteed maximum price shall be agreed to as an amendment to the contract between the public agency and the construction management at risk firm;

(3) The guaranteed maximum price amendment shall be executed before the commencement of any construction work; except that the public agency, before the execution of the guaranteed maximum price amendment, may commence construction, so long as the public agency executes a separate amendment to the contract with the construction manager at risk detailing the scope of work selected to commence before execution of the guaranteed price amendment. The separate amendment shall state the sum for the scope of work, which shall include the cost of the work, the general conditions and additional fee, if any, for the construction manager at risk; but, any class of work included in the scope of work selected

to commence before the execution of the guaranteed maximum price amendment shall be subject to the trade contractor selection process set forth in section 8, for the stated scope of work only. In the event that a guaranteed maximum price cannot be successfully negotiated between the public agency and the construction manager at risk, any trade contractor agreement between the construction manager at risk and a trade contractor for work selected to commence before execution of the guaranteed maximum price amendment may be assigned to the public agency or to another construction manager at risk designated by the public agency, without the assent of the trade contractor, and the public agency or the designated construction manager at risk and the trade contractor shall be bound by the terms of the trade contractor agreement; and

(4) The guaranteed maximum price amendment to the contract between the public agency and the construction management at risk firm shall include a detailed line item cost breakdown by trade, including any cost for work selected to commence before the execution of the guaranteed maximum price amendment; dollar amounts for the construction management at risk firm's contingency; dollar amounts for the general conditions and fees, including any amounts related to work selected to commence before the execution of the guaranteed maximum price amendment; a list of all the drawings, specifications and other information on which the guaranteed maximum price is based; a list of allowances and statement of their basis; a list of any assumptions or clarifications on which the guaranteed maximum price is based; the dates for substantial and final completion on which the guaranteed maximum price is based; and a schedule of applicable alternates and unit prices.

Upon establishment of the guaranteed maximum price, the construction management at risk firm shall provide all required performance and payment bonds in the amount of the guaranteed maximum price within 5 business days after the execution of the guaranteed maximum price amendment.

(c) In the event that a guaranteed maximum price cannot be successfully negotiated between the public agency and the construction management at risk firm, the selection committee may commence negotiations with 1 additional proposer starting with the next highest ranked proposer. In the event that a contract and guaranteed maximum price amendment cannot be successfully negotiated between the selection committee and the next highest ranked proposer, the public agency shall terminate the procurement process and shall instead procure the project in accordance with sections 44A to 44J, inclusive, of chapter 149. Upon the termination, the public agency may not re-apply for approval to use the construction management at risk delivery method for the same building project unless the building project has been materially changed in form or function.

Section 8. (a) For each building project procured pursuant to sections 1 to 9, inclusive, the public agency shall establish a trade contractor selection process for all sub-bid classes of work listed in section 44F of chapter 149 and all other sub-bid classes of work selected by the public agency for the project, provided the sub-bid work meets or exceeds the threshold sum identified in subsection (1) of section 44F of chapter 149. The selection process for the trade contractors shall conform to the requirements set out in subsections (b)

to (k), inclusive, of this section. The public agency shall also establish a selection process for subcontractors who are not trade contractors as defined above. The selection process shall conform to the requirements of subsection (j) of this section. All trade contractors and subcontractors seeking to provide services in connection with the building project shall be prequalified in accordance with this section. The public agency may, consistent with established minority business enterprise and women business enterprise inclusion goals, provide an additional 5 points to the total score of each minority business enterprise and women business enterprise in the prequalification process as provided in subsection (e) of this section. The construction management at risk firm may submit its qualifications to bid on trade contract or subcontract work in accordance with this section; provided that the construction management at risk firm customarily performs the work for which it submits qualifications; provided further, that the construction management at risk firm must perform the work with employees on its own payroll; and provided further, that the construction management at risk firm meets all the requirements of the selection process.

All trade contracts entered into in accordance with this chapter shall be secured by performance and payment bonds in the full amount of the trade contract amount from a surety company licensed to do business in the commonwealth and whose name appears on United States Treasury Department Circular 570; provided that the bonds are subject to subsection (3) of section 44F of chapter 149.

(b) The public agency shall establish a trade contractor prequalification committee for the building project. The prequalification committee shall be comprised of a representative from the designer, a representative from the construction management at risk firm, and 2 representatives appointed by the public agency.

(c) The construction management at risk firm shall provide to the public agency detailed information describing the work required for each trade contractor. This detailed information shall serve as the basis for an RFQ to be issued by the public agency. The public agency shall give public notice of trade contractor work on the building project and shall issue for each trade contract established under subsection (a) an RFQ which shall be used to solicit responses from eligible trade contractors and which shall be used to prequalify the trade contractors to participate on the building project; but, the public notice and solicitation shall include at a minimum:

- (1) the date, time and place for submission;
- (2) relevant information about the project and the bidding process;
- (3) the specific criteria for trade contractor prequalification and selection;
- (4) a statement indicating that the RFQ will be used to prequalify trade contractors

that will be invited to submit a bid; and

(5) that the responders' names are to be posted, but that there shall be no public opening of responses.

All interested trade contractors shall be eligible to respond to the RFQ and participate in the prequalification process.

Each response submitted by a trade contractor in response to the RFQ shall be signed under pains and penalties of perjury. Financial information provided in response to the RFQ shall remain confidential and not be a public record as defined in section 7 of chapter 4 and shall not be open to public inspection, to the fullest extent possible under the law.

(d) The public notice and solicitation required in subsection (c) shall be advertised in a newspaper of general circulation in the area in which the building project is located, in the central register pursuant to section 20A of chapter 9, and within the COMPASS system, so-called. The public notice and solicitation shall be given not less than 2 weeks before the deadline for submitting responses to the RFQ.

(e) The RFQ shall require only the information contained in subparagraphs 1 to 4, inclusive, of this paragraph, and shall identify the specific point allocation for each category and sub-category of information. Within each category of information, public agencies may use discretion in allocating points among the subcategories, consistent with the total points for the category.

(1) *Management Experience (50 points; minimum of 25 required for approval):*

(i) Business owners, The name, title, years with firm of the owner(s) of the business.

(ii) Management personnel, The names, title, education and construction experience, years with firm, and list of projects completed by all management personnel.

(iii) Similar project experience, The project name(s), description, description of scope, original trade contract sum, final trade contract sum with explanation, and date completed of similar projects.

(iv) Terminations, A list of any projects on which the trade contractor was terminated or failed to complete the work.

(v) Lawsuits, A list of commercial lawsuits in which the trade contractor is a defendant or defendant-in-counterclaim with regard to construction contracts within the last 3 years. The lawsuits shall not include any actions that primarily involve personal injury or workers' compensation claims, or where the sole cause of action involves the trade contractor's exercise of its rights for direct payment under section 39F of chapter 30.

(vi) Safety record, The 3 year history of the trade contractor's workers' compensation experience modifier.

(2) *References (30 points; minimum of 15 required for approval):*

(i) Client references for all projects listed in clause (iii) of subparagraph (1), including the project name, client's name, address, telephone and fax number, and contact person.

(ii) Credit references, A minimum of 5 credit references, including telephone and fax number of contact person from key suppliers, vendors and banks.

(iii) Public project record, A list of all completed public building construction projects as defined in section 44A of chapter 149 during past 3 years with client's name, address, telephone and fax number and contact person.

(3) *Capacity to Complete Projects (20 points; minimum of 10 required for approval):*

(i) Annual revenue for prior 3 fiscal years. There shall be no requirement for submission of financial statements.

(ii) Revenue under contract for next 3 fiscal years.

(4) *Mandatory commitment letter*, for which no points are assigned, for payment and performance bonds at 110 per cent of the estimated trade contract value from a surety company licensed to do business in the commonwealth and whose name appears on United States Treasury Department Circular 570.

(f) Responses submitted in response to the RFQ issued pursuant to subsection (e) shall be reviewed and scored by the trade contractor prequalification committee established pursuant to subsection (b). All trade contractors who achieve a score of 70 points or greater shall be prequalified to submit a bid. The public agency shall notify the prequalified trade contractors of their approval to submit a bid on the project as well as the schedule and timing for the submission of the Request for Bid as outlined below. The decision of the prequalification committee shall be final and not subject to appeal except on the grounds of fraud or collusion. A trade contractor's score shall be made available to the trade contractor upon request, but shall not be a public record as defined in section 7 of chapter 4 and shall not be open to public inspection, to the fullest extent possible under the law.

(g) Trade contractors prequalified pursuant to subsection (f) shall be invited to submit a bid on the proposed building project pursuant to a Request for Bids for trade subcontracting services. The request for bids document shall include, without limitation, the following information:

(1) the date, time and place for submission of responses to the request for bids,

(2) fully detailed drawings and specifications by class of work in accordance with paragraph (a) of subsection (1) of section 44F of chapter 149 which shall provide for full competition for each item of material to be furnished under the contract as set forth under subsection (b) of section 39M of chapter 30;

(3) a detailed definition of the trade contractor's scope of work, including alternates and allowances, if any, within that scope of work;

(4) a project schedule indicating the planned sequence and duration of each trade contractor's work;

(5) a list of prequalified trade contractors;

(6) a trade contractor bid form that shall require, without limitation, a listing of price, addenda, alternates and allowances, if any, for the trade work; certification that the trade contractor will perform the complete trade work with employees on his own payroll, except for work customarily performed by sub-trade subcontractors within the trade; and the names of all sub-trade subcontractors to be used if awarded the trade contract and each sub-trade contract sum;

(7) an affidavit that all sub-trade subcontractors named on the bid form have been prequalified by the trade contractor using criteria similar to the criteria for the prequalification of trade contractors;

(8) an affidavit of tax compliance;

(9) an affidavit of prevailing wage compliance pursuant to sections 26 and 27 of chapter 149;

(10) a non-collusion affidavit;

(11) a requirement for the bidder to post a 5 per cent bid bond from a surety company licensed to do business in the commonwealth and whose name appears on U.S. Treasury Department Circular 570; but, the bid bond shall be returned to the bidder if the bidder is not selected as the trade contractor;

(12) the budget for the project, and the budget amount for the trade contract scope of work as provided in the project guaranteed maximum price if available, or as provided in the most recent budget for the project; and

(13) a trade contractor agreement form as set forth in this section including all exhibits.

Trade contractors submitting bids in response to the request for bids shall do so in accordance with the requirements contained in the request for bids package. Any bid which does not include the bid bond or affidavits required pursuant to this subsection or any response in which the information requested is incomplete, conditional, or obscure or which contains any additions not required in the request for bids package shall be rejected.

(h) Bids shall be opened publicly by the public agency and shall be awarded to the lowest prequalified bidder; but, if the public agency receives fewer than 3 responsive bids on any trade contract and the lowest bid exceeds the estimated cost for the work for which the bids are requested, the construction manager at risk firm shall attempt to negotiate an acceptable price with the lowest prequalified bidder. If the negotiations are unsuccessful, the construction manager at risk firm shall terminate negotiations with the lowest prequalified bidder and shall initiate negotiations with the trade contractor who was the second lowest prequalified bidder. If the construction manager is unsuccessful in negotiating an acceptable price with the lowest prequalified bidder and second lowest prequalified bidder, the construction manager at risk firm, on behalf of and with the consent of the public agency, shall solicit additional bids, utilizing the procedures for selection of subcontractors who are not trade contractors, set out in subsection (j).

(i) Each trade contractor selected by the construction management at risk firm to perform work on the building project shall return an executed trade contract including the required performance and payment bonds and insurance certificate to the construction manager at risk firm within 10 business days of receipt of the trade contract from the construction manager at risk firm. The trade contract shall be the trade contract agreement in subsection (k).

(j) For subcontractors who are not trade contractors as defined in subsection (a) and whose work has an estimated cost at or exceeding the threshold sum identified in subsection (1) of section 44F of chapter 149, the construction management at risk firm shall submit to the public agency for approval the qualifications that a subcontractor must have in order to perform the work of the subcontract and a list of 3 subcontracting firms which the construction management at risk firm believes meets the qualifications. The public agency may eliminate firms from the list and may add firms to the list; if, any firm added is acceptable to the construction management at risk firm. The construction management at risk firm shall

invite each subcontractor approved by the public agency to submit a bid for the work. The bid shall be based on detailed bidding information developed by the construction management at risk firm. The construction management at risk firm shall present a list of the bids submitted to the public agency. The construction management at risk firm shall indicate the bidders who are selected to be awarded a subcontract. The construction management at risk firm shall provide a written explanation as to the reason for the award of a subcontract. Notwithstanding the foregoing, subcontracts with an award value that does not exceed the threshold sum as identified in subsection (1) of section 44F of chapter 149, may be awarded by the construction management at risk firm using any selection method selected by the construction management at risk firm with the approval of the public agency.

(k) When entering into a contract with a trade contractor selected to perform work pursuant to subsections (h) and (i), the trade contractor agreement shall be in the following form:

TRADE CONTRACTOR AGREEMENT

THIS AGREEMENT MADE THIS \_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_\_\_, by and between \_\_\_\_\_ a corporation organized and existing under the laws of \_\_\_\_\_ a partnership consisting of \_\_\_\_\_ an individual doing business as \_\_\_\_\_ hereinafter called the "Construction Management At Risk Firm" and \_\_\_\_\_ a corporation organized and existing under the laws of \_\_\_\_\_ an individual doing business as \_\_\_\_\_ hereinafter called the "Trade Contractor".

WITNESSETH that the Construction Management At Risk Firm and the Trade Contractor for the considerations hereafter named, agree as follows:

(1) The Trade Contractor agrees to furnish all labor and materials required for the completion of all work specified in Section No(s). \_\_\_\_ of the specifications for \_\_\_\_\_ (name of Sub-trade(s)) and the plans referred to therein and addenda No. \_\_\_\_ for the \_\_\_\_\_ (project) all as prepared by \_\_\_\_\_ designer. All work shall be in accordance with the contract documents listed on Exhibit A; and the detailed Scope of Work listed on Exhibit B. The Construction Management At Risk Firm agrees to pay the Trade Contractor as full payment for all the work in Exhibit B the sum of \$ \_\_\_\_\_. This price includes the following alternates: Nos. \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_.

(A) The Trade Contractor agrees to be bound to the Construction Management At Risk Firm by the terms of the hereinbefore described plans; specifications (including all general conditions stated therein) and addenda No. \_\_\_\_\_, and \_\_\_\_\_, and \_\_\_\_\_, and to assume to the Construction Management At Risk Firm all the obligations and responsibilities that the Construction Management At Risk Firm by those documents assumes to the \_\_\_\_\_ (Public Agency) hereinafter called the "Public Agency," except to the extent that provisions contained therein are by their terms or by law applicable only to the Construction Management At Risk Firm.

(B) The Construction Management At Risk Firm agrees to be bound to the Trade Contractor by the terms of the hereinbefore described documents and to assume to the Trade Contractor all the obligations and responsibilities that the Public Agency by the terms of the hereinbefore described documents assumes to the Construction Management At Risk Firm, except to the extent that provisions contained therein are by their terms or by law applicable only to the Public Agency.

(2) The Construction Management At Risk Firm agrees to begin, prosecute and complete the entire work specified by the Public Agency in an orderly manner so that the Trade Contractor will be able to begin, prosecute, and complete the work described in this Trade Contract; and, in consideration thereof, upon notice from the Construction Management At Risk Firm, either oral or in writing, the Trade Contractor agrees to begin, prosecute and complete the work described in this Trade Contract in an orderly manner and in accordance with the Project Schedule attached as Exhibit C as it may be reasonably modified from time to time by agreement of the Construction Management At Risk Firm and the Trade Contractor.

(3) The Trade Contractor agrees to furnish to the Construction Management At Risk Firm, on execution of this Trade Contractor Agreement and prior to commencing the work, evidence of workers' compensation insurance as required by law and evidence of public liability and property damage insurance of the type and in limits required to be furnished to the Public Agency by the Construction Management At Risk Firm.

(4) The Construction Management At Risk Firm agrees that no claim for services rendered or materials furnished by the Construction Management At Risk Firm to the Trade Contractor shall be valid unless written notice thereof is given by the Construction Management At Risk Firm to the Trade Contractor during the first ten (10) days of the calendar month following that in which the claim originated.

(5) This Trade Contractor Agreement is contingent upon the execution of an amendment to the contract between the Construction Management At Risk Firm and the Public Agency for the work of the Trade Contractor.

(6) If the trade contractor should be adjudged a bankrupt, or if he should make a general assignment for the benefit of his creditors, or if a receiver should be appointed on account of his insolvency, or if he should persistently or repeatedly refuse or should fail, except in cases for which extension of time is provided, to supply enough properly skilled workmen or proper materials, or if he should fail to make prompt payment to sub-trade subcontractors or for material or labor, or persistently disregard laws, ordinances or the instructions of the Construction Management At Risk Firm, or otherwise be guilty of a substantial violation of any provision of the contract, then the Construction Management At Risk Firm may, without prejudice to any other right or remedy and after giving the Trade Contractor and his surety seven days' written notice, terminate the employment of the Trade Contractor and take possession of the premises and of all materials, tools, and appliances thereon and finish the work by whatever method he may deem expedient. In such case the

Trade Contractor shall not be entitled to receive any further payment until the work is finished. If the unpaid balance of the trade contract price shall exceed the expense of finishing the work including compensation for additional architectural, managerial and administrative services, such excess shall be paid to the Trade Contractor. If such expense shall exceed such unpaid balance, the Trade Contractor shall pay the difference to the Construction Management At Risk Firm. The Construction Management At Risk Firm and Trade Contractor shall have the right to seek damages for breach of this Trade Contract without terminating this Trade Contract or ceasing performance hereunder.

(7) The following exhibits are incorporated into their subcontract:

Exhibit A: Contract Documents

Exhibit B: Detailed Scope of Work

Exhibit C: Project Schedule

(8) IN WITNESS WHEREOF, the parties hereto have executed this agreement the date and year first above-written.

SEAL

ATTEST \_\_\_\_\_  
Trade Contractor

SEAL

ATTEST \_\_\_\_\_  
Construction Management At Risk Firm

Section 10. Sections 26, 27, 27A, 27B, 27C, 27D, 29, 29C, and 34A of chapter 149, and sections 39F, 39J, 39K, 39N, 39O, 39P and 39R of chapter 30 shall apply to all building projects using the construction management at risk delivery method as provided in this chapter.

Section 11. For purposes of sections 1 to 10, inclusive of this chapter, the following terms as they may appear in other statutory provisions referred to in this chapter shall have the following meanings:

"Awarding authority", "contracting authority", "contracting body", or "public body", a public agency.

"General contractor", "contractor", or "contractor principal", a construction management at risk firm.

"Subcontractor", a subcontractor and trade contractor except that the term "subcontractor" in subsection (3) of section 39F of chapter 30 shall mean a trade contractor pursuant to subsection (a) and a subcontractor pursuant to subsection (j) of section 8.

Section 12. The inspector general shall promulgate regulations and procedures to implement sections 1 to 11, inclusive. In preparing the regulations and procedures, the inspector general shall, at a minimum, consult with the Associated General Contractors, the Associated Subcontractors of Massachusetts, the Boston Society of Architects, the Massachusetts Building Trades Council, the exempt agencies as identified in subsection (d) of section 4, and other parties considered necessary to promulgate the regulations and procedures.

Section 13. Not later than 5 years after the effective date of this chapter, the inspector general shall undertake and complete a review for the purpose of describing the experience of public agencies that utilized construction manager at risk services. The review shall serve as the basis for a report to be submitted by the inspector general to the joint committee on state administration, the clerk of the house of representatives, and to the clerk of the senate not later than October 1, 2009. The report shall also include legislative recommendations, if any.

Section 14. Notwithstanding section 39M of chapter 30, for each contract for the construction, reconstruction, alteration, remodeling or repair of a public works project by an awarding authority and estimated by the awarding authority to cost not less than \$5,000,000, the awarding authority may utilize design build for the construction, reconstruction, alteration, remodeling or repair of any public works project pursuant to this section and sections 15 to 21, inclusive; but, before using the design build, the awarding authority shall seek the approval of the inspector general pursuant to section 16.

Section 15. As used in sections 1 to 8, inclusive, the following words shall, unless the context indicates otherwise, have the following meanings:

"Best value", the highest overall value to the awarding authority, considering quality and cost.

"Awarding authority", the commonwealth, or any political subdivision, department, agency, board, commission, authority, or other instrumentality thereof, or any county, city, town, or district.

"Building project", the construction, reconstruction, installation, demolition, maintenance or repair of any building.

"Design build", a construction delivery system that provides responsibility for the delivery of design services and construction services within a single contract.

"Design build contract", a contract for a public works project between an awarding authority and a design build entity to furnish design build services.

"Design build entity", an individual, sole proprietorship, firm, partnership, joint venture, corporation, or other entity that provides design build services.

"Design professional", shall have the same meaning as "designer" as defined in section 38A ½ of chapter 7.

"Governing body", the person or group of persons who have the power to enter into and approve of a contract between an awarding authority and a design build entity.

"Major participant", a private entity that would have a major role in the design or construction of the project as a member of the design build entity.

"Proposal", an offer by the proposer in accordance with all RFP provisions for the price contained in the proposal.

"Public works project", a project subject to section 39M of chapter 30 or section 34 of chapter 90; but, the term "public works project" shall not include a building project.

"Quality", the basis on which the awarding authority shall evaluate the elements of

the project that the awarding authority determines are most important to the project. The elements may include quality of design, innovative approach, constructability, life-cycle cost and other long-term maintenance costs, maintenance of traffic, aesthetics, environmental impacts, local impacts, traveler and other user costs, service life, time to construct and other factors that the awarding authority considers to be in the best interest of the awarding authority.

"Request for proposal", or "RFP", the document issued by an awarding authority to solicit proposals from pre-qualified design build entities for the purpose of entering into a design build contract.

"Request for qualifications", or "RFQ", the document issued by an awarding authority for the purpose of creating a short list of qualified design build entities to respond to an RFP issued by said awarding authority.

"Responsible proposer", a person, corporation, or other organization or entity which has the capability to perform the requirements of the design build contract, has the integrity and reliability to assure good faith performance, and meets the qualifications component of the RFP.

"Selection committee", the committee established by the awarding authority that shall review proposals and recommend selection of best-value or low-bid proposals.

"Two-phase selection process", a procurement process in which the first phase consists of creating a short list of qualified design build entities as determined by responses to an RFQ and in which the second phase consists of the submission of technical and price proposals in response to an RFP.

Section 16. (a) Before undertaking a public works project using design build, an awarding authority shall notify and submit a detailed application to proceed to the office of the inspector general. The detailed application shall conform to regulations and procedures promulgated by the inspector general and as may be amended from time to time. In order to receive a notice to proceed from the office of the inspector general, the awarding authority shall demonstrate the following:

(1) The awarding authority has authorization from its governing body to enter into a contract for design build. The authorization shall include the results of any public vote if applicable.

(2) The awarding authority has the capacity, a plan and procedures in place and approval by the governing body, where appropriate, to effectively procure and manage a design build entity for the specific project.

(3) The awarding authority has in place procedures to ensure fairness in competition, evaluation and reporting of results in the procurement process.

(4) The public works project has an estimated construction value of \$5,000,000 or more.

(5) The awarding authority has determined that the use of design build is appropriate for the public works project and states in writing the reasons for the determination.

(b) An awarding authority that meets all requirements established by the inspector general shall be issued a notice to proceed to use design build for a public works project. If the inspector general declines to issue a notice to proceed to an awarding authority, the inspector general shall provide in writing to the awarding authority the reason or reasons for the decision. An awarding authority that does not receive a notice to proceed from the inspector general may re-submit the application upon correcting or responding to the reason or reasons provided to the awarding authority by the inspector general. The inspector general shall review the resubmitted application and, if the application meets the requirements established by the inspector general, shall issue a notice to proceed.

(c) The inspector general shall consider applications for approval to use design build in a timely manner and shall make decisions on such applications on an awarding authority's application within 60 days of the date the application is submitted to the inspector general.

(d) Notwithstanding subsection (a), the Massachusetts highway department, the Massachusetts port authority, and the Massachusetts water resources authority, hereinafter, "exempt agencies", shall not be subject to said subsection (a). Each exempt agency shall submit its procedures for the procurement and use of design build to the inspector general, and so long as the inspector general determines that the procedures of an exempt agency comply with sections 1 to 10, inclusive, the inspector general shall approve the procedures and each exempt agency, so approved, may use the design build delivery method consistent with the procedures so approved on building projects. Each exempt agency shall annually submit its procedures to the inspector general for review and approval by the inspector general. If an exempt agency modifies or amends the procedures so approved, the exempt agency shall immediately submit the amended procedures to the inspector general for approval. The inspector general shall have 60 days from the time an exempt agency submits its procedures to approve or disapprove the procedures. An exempt agency whose procedures have been disapproved may correct the deficiency or deficiencies contained therein and re-submit the corrected procedures to the inspector general for review and approval. The inspector general shall conduct an expedited review of corrected procedures.

(e) A awarding authority after receiving a notice to proceed, or an exempt agency after having its procedures approved, may use design build as approved. The awarding authority or exempt agency shall procure a design build entity in accordance with the 2 phase selection process as provided in sections 17 to 19, inclusive.

Section 17. The awarding authority shall utilize a 2 phase selection process as provided in this section, and sections 18 and 19, for the selection of a design build entity with whom to enter into a design build contract for the delivery of a public works project.

(a) Phase 1 of the 2 phase selection process shall begin once the awarding authority gives public notice of the public works project and solicits letters of interest from design build entities; but, the public notice and solicitation shall include:

(1) the time and date for receipt of letters of interest, the address of the office to which the responses are to be delivered, and the timeframe in which the awarding authority will respond to the letters of interest;

(2) a general description of the project, including the estimated construction cost of the work, the time period within which the projected construction work is to be completed, and the evaluation criteria that will be utilized pursuant to subsection (e); and

(3) a statement indicating that a request for qualifications, or RFQ, will be utilized to identify qualified design build entities to submit a proposal pursuant to section 19.

(b) The public notice and solicitation required in subsection (a) shall be advertised in a newspaper of general circulation in the area in which the project is located or to be located and in the central register established under section 20A of chapter 9. Said public notice and solicitation shall be given not less than 2 weeks before the deadline for submitting said letters of interest.

(c) Upon receipt of letters of interest from design build entities, the awarding authority shall provide to each such design build entity an RFQ. The RFQ shall serve as the basis by which an awarding authority creates a shortlist of design build entities to receive an RFP in phase 2 of the 2 phase selection process. The RFQ shall also contain the date certain by which responses to said RFQ are due. Said RFQ shall require the following information from each major participant upon which the responses shall be reviewed and evaluated:

(1) work experience on projects similar in size and scope, any terminations from work or failure to complete work, any lawsuits filed against any of the major participants, any prior business record of the officers or principals of the major participants, and the safety record of major participants; said information shall be provided for the past 3 years;

(2) references, including references from previous clients, bank references, surety references, and a complete record of public project record for the 3 years before submission of the request for qualifications;

(3) bonding capacity, which shall be evidenced by a commitment letter from an approved surety;

(4) interested design build entities shall respond to the awarding authority by submitting all information required by, and not later than the date indicated in, the RFQ to the awarding authority.

(d) The awarding authority shall designate the individuals responsible for the evaluation of the responses on the basis of the evaluation criteria set forth in the request for qualifications. The designated individuals shall have experience in design build. The individuals shall prepare their evaluations based solely on the information requested pursuant to the RFQ. Such information shall serve as the criteria by which the qualifications are evaluated. The information shall include all other performance measures that will be utilized, provided that said other performance measurers were made known to perspective responders at the time the request for qualifications was made available to said responders. The evaluations shall specify in writing:

(1) for each evaluation criterion, a rating of each response as advantageous, not advantageous, or unacceptable, and the reasons for the rating; and

(2) a composite rating for each proposal using said ratings as advantageous, not advantageous, or unacceptable, and the reasons for said composite rating.

(e) The awarding authority shall investigate and verify all information received. All financial information, trade secrets or other information customarily regarded as confidential business information shall not be deemed to be public information and shall remain confidential to the extent permissible under current law.

(f) Design build entities achieving a composite rating of highly advantageous or advantageous shall be eligible to receive an RFP in phase 2 of the 2 phase selection process. The awarding authority may select any number of design build entities to receive an RFP, except that, if the awarding authority fails to identify at least 2 design build entities to receive an RFP, the awarding authority shall re-advertise the public works project and renew the RFQ process.

Section 18. Before issuing an RFQ pursuant to section 17, the awarding authority shall contract for the duration of the 2 phase selection process with a design professional to provide technical advice and professional expertise to the awarding authority; but, in retaining the services of a design professional the awarding authority may utilize the services of a design professional already in the employ of the awarding authority, or if the awarding authority does not already have in its employ the design professional, the awarding authority shall procure the services of a design professional pursuant to sections 38A ½ to 38O, inclusive, of chapter 7.

After the awarding authority has retained a design professional, the awarding authority shall develop with the assistance of the design professional a scope of work statement that defines the public works project and provides prospective design build entities with sufficient information regarding the awarding authority's objectives and requirements. The scope of work statement shall include criteria and preliminary design, general budget parameters, and general schedule requirements to enable prospective design build entities to submit proposals in response to the RFP issued pursuant to section 19.

Once the awarding authority has developed a scope of work statement that adequately defines the awarding authority's objectives and requirements for the public works project, the awarding authority may develop and issue a draft RFP at the same time and in the same manner as issuing an RFQ pursuant to section 17. Design build entities receiving a draft RFP may submit written comments on the draft RFP to the awarding authority at the same time as submitting a response to the RFQ issued pursuant to section 4. The awarding authority may, at its sole discretion, incorporate written comments received from design build entities within the final RFP and may provide to design build entities prequalified to submit a proposal the final RFP pursuant to section 6.

The design professional retained to provide technical assistance and consulting services to the awarding authority shall not be eligible to participate in any way as a member of the design build entities competing for the award of the design build contract.

Section 19. The awarding authority shall issue an RFP to each design build entity that has been prequalified to receive an RFP pursuant to section 17. In addition to identifying the date by which the RFP is to be submitted to the awarding authority, the following requirements shall apply to an RFP issued pursuant to this section, unless noted

otherwise:

(1) The RFP shall set forth a detailed scope of work including design concepts, technical requirements, performance criteria, construction requirements, time constraints and all other requirements that have a substantial impact on the cost, schedule and quality of the public works project and the project development process, as determined by the awarding authority.

(2) The RFP shall include the criteria for evaluating and ranking proposals.

(3) The RFP shall identify the cost basis, low-bid or best value, by which the awarding authority will evaluate proposals submitted in response to said RFP. For projects to be awarded on a best-value basis, the scoring process, quality criteria and relative weight thereof must be contained in the RFP.

(4) At the awarding authority's discretion, the RFP may provide for a process, including the establishment of a team, to review conceptual technical submittals before full proposal submittal for the purposes of identifying defects that would cause rejection of the proposal as non-responsive.

(5) All such technical conceptual submittals and responses shall remain confidential until after the award of the contract.

(6) The RFP shall require that every response shall be accompanied by a bid deposit in the form of a bid bond, or cash, or a certified check on, or a treasurer's or cashier's check issued by, a responsible bank or trust company, payable to the awarding authority. The amount of such bid deposit shall be 5 per cent of the value of the bid. Any person submitting a bid under this section shall, on such bid, certify as follows:

The undersigned certifies under penalties of perjury that this bid is in all respects bona fide, fair and made without collusion or fraud with any other person. As used in this paragraph the word "person" shall mean any natural person, joint venture, partnership, corporation or other business or legal entity.

---

(Name of person signing bid)

---

(Company)

The RFP may provide for a stipend upon terms specified in the RFP to unsuccessful proposers that submit proposals that conform to the requirements of the RFP; but, the awarding authority may only use ideas and designs contained in non-successful proposals if a stipend, as defined in the RFP, is paid to the proposer.

Section 20. Pursuant to this section the awarding authority may evaluate and select proposals on either a best-value or low-bid basis. If the scope of work requires substantial engineering judgment, the quality of which may vary significantly as determined by the awarding authority, then the basis of award shall be best value. If the awarding authority evaluates proposals using low-bid as the basis for making such evaluation, it shall do so using the process outlined in subsection (a). If the awarding authority evaluates proposals

using best value as the basis for making such evaluation, it shall do so using the process outlined in subsection (b).

(a) If the basis of the award is low bid, then each proposal, including the price or prices, must be sealed by the proposer and submitted to the awarding authority as one complete package. The awarding authority shall publicly open and read the proposals forthwith upon the expiration of the time for filing said proposals. The awarding authority shall enter into good faith, non-fee negotiations of the design-build contract with the responsible proposer that submits a responsive proposal with the lowest bid.

(b) If the basis of the award is best value, then each proposal shall be submitted by the proposer to the awarding authority in two separate proposals, which shall include a sealed technical proposal and a sealed price proposal. The sealed technical proposal and sealed price proposal shall be submitted simultaneously.

(1) The awarding authority shall establish a selection committee that shall first open, evaluate, and score each technical proposal from responsible proposers based on the quality criteria contained in the RFP. The evaluation and ranking of proposals shall be in accordance with the quality criteria and relative weights assigned or identified in the RFP. During this evaluation process, the price proposals shall remain sealed. Each technical proposal shall remain confidential.

(2) After completion of the evaluation of the technical proposals, the awarding authority shall publicly open and read, at the place and time designated in the RFP, the sealed price proposals and shall publicly calculate the overall value rating for each proposal. The overall value rating shall be the total price divided by the quality score or another objective formula clearly detailed in the RFP. The awarding authority shall enter into good faith negotiations with the responsible proposer with the lowest price per quality score point. In the event that two or more proposers have the same lowest price per quality score, the awarding authority shall enter into good faith negotiations with the responsible proposer who submitted the lowest price.

(c) Upon the completion of successful negotiations with the selected design build entity, the awarding authority shall enter into a design build contract with said entity. After signing a design build contract, the awarding authority shall notify in writing all other design build entities that their proposals were not accepted.

Section 21. The inspector general shall promulgate regulations and guidelines to implement sections 14 to 20, inclusive. In preparing said regulations and guidelines, the inspector general shall, at a minimum, consult with the Construction Industries of Massachusetts, the American Council of Engineering Companies, the Massachusetts Municipal Association, the National Association of Minority Contractors, New England Chapter, the Massachusetts Building Trades Council, the exempt agencies as identified in subsection (d) of section 4, and other parties whose input is would be helpful in promulgating said regulations and guidelines.

**SECTION 28.** Section 2 of chapter 151A of the General Laws, as appearing in the 2002 Official Edition, is hereby amended by adding the following 2 paragraphs:-

The failure to withhold federal or state income taxes or to pay workers compensation premiums with respect to an individual's wages shall not be used for the purposes of making a determination under this section. An individual's exercise of the option to purchase insurance as permitted by subsection (4) of section 1 of chapter 152 shall not be used for purposes of making a determination under this section.

Whoever fails to treat an individual as an employee according to this chapter shall be punished as provided in section 47. Nothing in this section shall limit the availability of other remedies at law or in equity.

**SECTION 29.** The second paragraph of section 18 of chapter 773 of the acts of 1960 is hereby amended by inserting at the end thereof the following sentence:- As used in this section, the term "nongovernmental sources" shall be limited to private donations, gifts, contracts, or grants, including commercial ventures and intellectual property contracts, or grants or contracts from the federal government or the administrative overhead associated with such grants and contracts; but the term shall not mean revenue derived from fees, tuition or charges of any kind paid by students, faculty, or staff.

**SECTION 29A.** Section 29 shall expire on August 1, 2006.

**SECTION 30.** Chapter 703 of the acts of 1963 is hereby amended by inserting after section 21 the following 9 sections:-

**Section 21A.** For each contract for a building project, as defined in section 21B, which is estimated to cost not less than \$1,000,000, the authority may elect to use the single selection method, as defined in section 21B, pursuant to sections 21A to 21I, inclusive. Before using the single selection method, the authority shall submit to the inspector general for approval its procedures for the use of the delivery method pursuant to section 21C.

**Section 21B.** As used in sections 21A to 21I, inclusive, the following words shall unless the context clearly indicates a different meaning or intent have the following meanings:-

"Authority", the Massachusetts State College Building Authority, established by section 2 of chapter 703 of the acts of 1963.

"Building project", shall have the same meaning as the word "project" as found in section 1 of chapter 703 of the acts of 1963.

"Construction management at risk" or "Construction management at risk services" or "Construction management at risk delivery method", a construction method wherein a construction management at risk firm provides a range of preconstruction services and construction management services which may include cost estimation and consultation regarding the design of the building project, the preparation and coordination of bid packages, scheduling, cost control, and value engineering, acting as the general contractor during the construction, detailing the trade contractor scope of work, holding the trade contracts and other subcontracts, prequalifying and evaluating trade contractors and subcontractors, and providing management and construction services, all at a guaranteed maximum price, which shall represent the maximum amount to be paid by the Authority for

the building project, including the cost of the work, the general conditions and the fee payable to the construction management at risk firm.

"Construction management at risk firm", a sole proprietorship, partnership, corporation, or other legal entity that provides construction management at risk services;

"Designer", shall have the same meaning as found in section 38A ½ of chapter 7 of the General Laws, and shall be independent of the construction management at risk firm and the owner's project manager.

"Guaranteed Maximum Price", or "GMP", the agreed total dollar amount for the construction management at risk services, including the cost of the work, the general conditions and the fees charged by the construction management at risk firm.

"Owner's project manager" shall have the same meaning as found in section 44A ½ of chapter 149 of the General Laws.

"Request for qualifications and proposals" or "RFQP", the documents utilized for soliciting statements of qualifications and proposals, including documents attached or incorporated by reference.

"Responsible bidder or offeror", a person who has the capability to perform fully the contract requirements, and the integrity and reliability which assures good faith performance.

"Single selection method" or "single selection procurement process", the method or process by which a designer and a construction management at risk firm submit jointly as a team in response to a request for qualifications and proposals and are evaluated and scored as such by the authority.

"Two-phase selection process", a procurement process in which the first phase consists of creating a short list of prequalified firms as determined by responses to a request for qualifications and in which the second phase consists of inviting firms prequalified in the first phase to submit responses to a request for proposals or a request for bids.

Section 21C. (a) The authority may establish written procedures, consistent with sections 21A to 21I, inclusive, to implement the single selection method subject to approval by members of the authority. Before implementing the written procedures and before entering into a contract for a building project in which the authority seeks to use the single selection method, the Authority shall submit the written procedures to the inspector general for approval. If the inspector general determines that the written procedures of the authority are consistent with sections 21A to 21I, inclusive, the inspector general shall approve the written procedures for use for 1 year commencing on the date the approval was granted. The authority annually thereafter shall submit its written procedures to the inspector general for review and approval in the manner prescribed herein. The inspector general shall have not more than 60 days from the time the authority submits its written procedures to approve or disapprove them. If the inspector general disapproves of the written procedures, notice in writing of the disapproval shall be provided to the authority. The notice shall indicate the reasons for the disapproval. The authority, upon correction of the deficiencies indicated in the notice from the inspector general, may re-submit the written procedures to the inspector general for review and approval. Upon re-submission of the procedures the inspector general

shall have not more than 30 days to conclude the subsequent review. The authority, upon amending or otherwise modifying its written procedures, shall submit immediately the amended or otherwise modified written procedures to the inspector general for approval. The authority shall implement the amended or otherwise modified written procedures only after having received the approval of the procedures from the inspector general. The process for approving amended or otherwise modified procedures shall be the same as the process for approving procedures as contained herein.

(b) The authority after receiving approval by the inspector general may implement its written procedures for the single selection method as described in the written procedures and consistent with sections 21A to 21I, inclusive.

Section 21D. (a) For each building project undertaken pursuant to sections 21A to 21I, inclusive, the authority shall utilize the single selection method, pursuant to this section, for the procurement of a designer and a construction management at risk firm.

Before procuring the services of a designer and construction management at risk firm, the authority, if required, shall procure or otherwise employ the services of an owner's project manager pursuant to section 44A ½ of chapter 149 of the General Laws. The owner's project manager shall be independent of the designer and the construction management at risk firm.

(b) Before issuing an RFQP, the authority shall establish a selection committee for the purpose of reviewing and evaluating statements of qualifications and proposals, as necessary, submitted in response to the RFQP issued pursuant to subsection (c). The selection committee shall be comprised of not less than 5 representatives of the authority, including staff members; but, 1 member of the prequalification committee shall be the owner's project manager, if applicable for the building project.

(c) The single selection procurement process shall begin once the authority provides public notice of the building project and solicits responses from designers and construction management at risk firms to an RFQP issued by the authority. Responses shall take the form of submission of statements of qualifications and proposals. The public notice shall include the following information:

(1) the date and time that the RFQP will be available to interested parties, including how interested parties shall obtain an RFQP;

(2) the date and time for receipt of statements of qualifications and proposals to the RFQP, including the address of the office to which the statements of qualifications and proposals are to be delivered;

(3) notice that the authority will accept only joint statements of qualifications and joint proposals from designers and construction management at risk firms who will be selected as a team;

(4) notice that the authority, although inviting responses from, and making final selection of, teams of designers and construction management at risk firms, will enter into a separate contract with the designer and the construction management at risk firm;

(5) a clear description of requirements regarding the submission of the statements of

qualifications and proposals, including that proposals submitted shall be in the form of separate technical and price components;

(6) a description of the building project including available preliminary concept designs and/or design information, geotechnical reports, existing condition surveys and specifications;

(7) a description of the specific designer services sought and the scope of services expected of the construction management at risk firm during the preconstruction and construction phases of the building project;

(8) a general description of the anticipated schedule and estimated construction cost for the building project, including site availability, the estimated time period within which the building project is to be completed, and any occupancy expectations;

(9) the evaluation procedure, the criteria for the selection of the designer and construction management at risk firm, who shall be selected as a team, and the rating system employed;

(10) a clear description of the communication guidelines to be followed during the procurement process including any measures to assure that the selection process will be open and fair;

(11) the form of contract and general and supplemental conditions including any incentive provisions allowable and any damages for delay provisions;

(12) information on whether the designer fee has been set or will be negotiated, and if the fee has been set, the amount of the fee;

(13) a fully developed schedule of cost items listing the authority's determination of what will be considered fee, cost of the work, and general condition items;

(14) specific information on the evaluation criteria including the methodology for determining the selected construction management at risk firm;

(15) the timetable and process for establishing a GMP including status of design and limitations on the amount and use of contingency;

(16) a list of the trade contractor classes of work to be required in the trade contractor prequalification plan;

(17) any additional information, as determined by the authority, that identifies the expectations of the authority of the selected team; and,

(18) a statement indicating that the RFQP will be used to prequalify teams who will be invited to submit a proposal in response to a request for proposal issued pursuant to this section.

Public notice of the solicitation required pursuant to this section shall be advertised in a newspaper of general circulation in the area in which the building project is located, in the central register pursuant to section 20A of chapter 9 of the General Laws, on the COMPASS system, so-called. The public notice and solicitation shall be given not less than 4 weeks before the deadline for submitting responses to the RFQP.

Section 21E. (a) In order to respond to the solicitation issued by the authority, interested designers and construction management at risk firms shall submit joint statements

of qualifications and proposals in response to a publicly advertised RFQP. The statement of qualifications, submitted as part of the responses to the RFQP, shall include, at a minimum, the following:

(1) a cover letter or executive summary detailing the key elements and factors that differentiate the designer and construction management at risk firm, hereinafter referred to as the "team", from other responders;

(2) completion of a qualifications application similar in form to AIA Document A305, 1986 edition, listing general business information and financial capacity;

(3) a list of lawsuits and arbitrations to which the either member of the team is a party in regard to design or construction contracts within the last 3 years, including a list of all convictions or fines for violations of state or federal law;

(4) submission of an audited financial statement for both members of the team for the most recent fiscal year and a letter from the surety company of the construction management at risk firm confirming the ability to provide performance and payment bonds for the building project under consideration;

(5) submission of information on the construction management at risk firm's safety record including its workers' compensation experience modifier for the prior 3 years;

(6) submission of information on and evidence of each team member's compliance record with respect to minority business enterprise and women business enterprise inclusion goals and workforce inclusion goals, if applicable;

(7) submission of information regarding the team's experience on building projects of similar size, scope and complexity, including references from the owners and architects of such building projects; but, each member of the team may also submit its own experience on building projects of similar size, scope and complexity;

(8) submission of information on any projects where either member of the team was terminated, failed to complete the work, or paid liquidated damages;

(9) submission of specific examples of the construction management at risk firm's project management reports or other illustrations of the construction management at risk firm's operating philosophy; and,

(10) any other relevant information that the authority determines is necessary to make an informed regarding team selection.

The statement of qualifications shall be signed by the duly authorized representative of the designer and the construction management at risk firm under pains and penalties of perjury.

(b) The RFQP, in addition to the statement of qualifications, shall require the submission of separate technical and price components as part of the overall proposal submitted in response to said RFQP. The technical component shall include:

(1) a detailed project approach, including preconstruction services;

(2) the project team members with position descriptions and relevant time commitments of said team members during the project, if applicable;

(3) submission of a project organization chart with specific information on key project personnel and/or consultants of the team;

(4) the construction management plan indicating approach to control of cost, schedule, quality, documents and claims;

(5) preliminary definition of trade contractor and subcontractor bid packages and scopes of work;

(6) affidavit of prevailing wage compliance pursuant to sections 26 and 27 of chapter 149 of the General Laws;

(7) a commitment letter from a surety company licensed to do business in the commonwealth and whose name appears on United States Treasury Department Circular 570 stating the surety's willingness to bond the building project in the full sum of the contract at 100 per cent of the budget for the building project;

(8) a technical challenges and solutions plan, and any qualifications or exceptions to the terms of the form of contract or supplemental conditions as included in the RFQP.

The price component shall include:

(1) the fee for design services, if the authority does not set the fee per the RFQP,

(2) the fee for preconstruction services with appropriate detail,

(3) the fee for construction services with explanation of the basis, and

(4) the estimated cost of general conditions with appropriate detail.

(c) Upon receipt of the statements of qualifications and proposals submitted by interested teams, the selection committee established pursuant to this section shall evaluate each statement of qualifications using the criteria as provided in the RFQP. Only teams who achieve an acceptable rating as defined in the RFQP will have the technical and price components of their proposals opened and reviewed. The decision of the prequalification committee shall be final and shall not be subject to appeal except on grounds of fraud or collusion.

(d) After making a determination as to which teams shall be prequalified to have their proposals reviewed, pursuant to subsection (c), the selection committee shall evaluate all proposals in accordance with the criteria included in the RFQP; but, if the selection committee elects to conduct an interview with any team that submitted a proposal in response to the RFQP, then the selection committee shall conduct interviews with each team that submitted a proposal to said RFQP. Based upon the evaluations of each proposal submitted by each team, the selection committee shall rank the proposals submitted by the teams and shall make a recommendation to the board as to the team selected to perform the work. The decision of the selection committee shall be final and not subject to appeal except on the grounds of fraud or collusion.

(e) The authority shall commence negotiations each member of the highest ranked team. Said negotiations shall commence with the designer, unless the board had been previously set and included the fee in the RFQP. Non-fee negotiations shall commence with the construction management at risk firm. If the authority determines that negotiations with

the designer or the construction management at risk firm will not result in a contract acceptable to the authority, the authority shall terminate negotiations with the highest ranked team and shall commence negotiations with the next highest ranked team. The process shall continue until the authority has reached an acceptable contract with 1 of the prequalified teams. The list and ranking of proposed teams shall be certified by the public agency and made available as a public record after the contracts have been awarded.

Section 21F. (a) Each contract for a building project procured pursuant to this section shall utilize a cost plus not to exceed guaranteed maximum price form of contract in which the authority shall be entitled to monitor and audit all project costs. The team shall not be entitled to share in any savings between the final guaranteed maximum price figure and the final cost of the work including the fee of the construction management at risk firm except that the authority may include an incentive clause within the contract for various performance objectives; but, the incentive clause shall not include an incentive that exceeds 1 per cent of the estimated construction cost.

In establishing the schedule and process for determining a guaranteed maximum price, the contract between the authority and the construction management at risk firm shall comply with the following:

(1) the guaranteed maximum price shall be based on design documents which are no less developed than 60 per cent construction documents;

(2) the guaranteed maximum price shall be agreed to as an amendment to the contract between the authority and the construction management at risk firm;

(3) the guaranteed maximum price amendment shall be executed before the commencement of any construction work; except that that the authority, before the execution of the guaranteed maximum price amendment, may commence construction, so long as the authority executes a separate amendment to the contract with the construction management at risk firm detailing the scope of work selected to commence before execution of the guaranteed price amendment. The separate amendment shall state the sum for the scope of work, which shall include the cost of the work, the general conditions and additional fee, if any, for the construction management at risk firm; but, any class of work included in the scope of work which is selected to commence before the execution of the guaranteed maximum price amendment shall be subject to the trade contractor selection process set forth in subsection (g), for the stated scope of work only. In the event that a guaranteed maximum price cannot be successfully negotiated between the authority and the construction management at risk firm, any trade contractor agreement between the construction management at risk firm and a trade contractor for work selected to commence before execution of the guaranteed maximum price amendment may be assigned to the authority or to another construction management at risk firm designated by the authority, without the assent of the trade contractor, and the authority or the designated construction management at risk firm and the trade contractor shall be bound by the terms of the trade contractor agreement; and

(4) the guaranteed maximum price amendment to the contract between the authority

and the construction management at risk firm shall include a detailed line item cost breakdown by trade, including any cost for work selected to commence before the execution of the guaranteed maximum price amendment; dollar amounts for the construction management at risk firm's contingency; dollar amounts for the general conditions and fees, including any amounts related to work selected to commence prior to the execution of the guaranteed maximum price amendment; a list of all the drawings, specifications and other information on which the guaranteed maximum price is based; a list of allowances and statement of their basis; a list of any assumptions or clarifications on which the guaranteed maximum price is based; the dates for substantial and final completion on which the guaranteed maximum price is based; and a schedule of applicable alternates and unit prices.

Upon establishment of the guaranteed maximum price, the construction management at risk firm shall provide all required performance and payment bonds in the amount of the guaranteed maximum price within 5 business days after the execution of the guaranteed maximum price amendment.

In the event that a guaranteed maximum price cannot be successfully negotiated between the authority and the construction management at risk firm, the board or its designee may commence negotiations with the next highest ranked team. The process shall continue until the authority has reached an acceptable contract with one of the prequalified teams. In the event that a contract and guaranteed maximum price amendment cannot be successfully negotiated between the authority and a prequalified team, the authority shall terminate the procurement process and shall instead procure the project in accordance with sections 44A to 44M, inclusive, of chapter 149 of the General Laws.

Section 21G. (a) For building projects implemented pursuant to this section, the authority shall establish a trade contractor selection process for all sub-bid classes of work listed in section 44F of chapter 149 of the General Laws and all other sub-bid classes of work selected by the authority for the project; provided, however, that the sub-bid work meets or exceeds the threshold sum identified in paragraph (1) of section 44F of said chapter 149; and provided, further, that the selection process for such trade contractors shall conform to the requirements set out in this subsection. The authority shall also establish a selection process for subcontractors who are not trade contractors as defined above. The selection process shall conform to the requirements of this subsection. All trade contractors seeking to provide services in connection with building projects of the authority shall be prequalified in accordance with this subsection. All subcontractors seeking to provide services in connection with building projects of the authority shall be prequalified in accordance with subsection (h). The authority may, consistent with established minority business enterprise and women business enterprise inclusion goals, provide an additional 5 points to the total score of each minority business enterprise and women business enterprise in the prequalification process as provided in this subsection. The construction management at risk firm may submit its qualifications to bid on trade contract or subcontract work in accordance with this subsection; provided, however, that the construction management at risk firm customarily performs the work for which it submits its qualifications; provided further, that

the construction management at risk firm shall perform the work with employees on its own payroll; and provided further, that the construction management at risk firm meets all the requirements of the selection process.

(b) All trade contracts entered into in accordance with this subsection shall be secured by performance and payment bonds in the full amount of the trade contract amount from a surety company licensed to do business in the commonwealth and whose name appears on United States Treasury Department Circular 570; but, the bonds shall be subject to paragraph (3) of section 44F of chapter 149 of the General Laws.

(c) The authority shall establish a trade contractor prequalification committee for the building project. The prequalification committee shall be comprised of a minimum of 5 members appointed by the authority, including a representative of the designer and a representative of the construction management at risk firm.

(d) The construction management at risk firm shall provide to the authority detailed information describing the work required for each trade contractor. This detailed information shall serve as the basis for an RFQ to be issued by the authority. The authority shall give public notice of trade contractor work on the building project and shall issue for each trade contract established under this subsection an RFQ which shall be used to solicit responses from eligible trade contractors and which shall be used to prequalify the trade contractors to participate on said building project; but, the public notice and solicitation shall include at a minimum:

- (1) the date, time and place for submission;
- (2) relevant information about the project and the bidding process;
- (3) the specific criteria for trade contractor prequalification and selection;
- (4) a statement indicating that the RFQ will be used to prequalify trade contractors that will be invited to submit a bid; and

(5) that the responders' names are to be posted, but that there shall be no public opening of responses.

All interested trade contractors shall be eligible to respond to the RFQ and participate in the prequalification process.

(e) Each response submitted by a trade contractor in response to the RFQ shall be signed under pains and penalties of perjury. Financial information provided in response to the RFQ shall remain confidential and not be a public record, as defined in section 7 of chapter 4 of the General Laws and shall not be open to public inspection.

(f) The public notice and solicitation required pursuant to this section shall be advertised in a newspaper of general circulation in the area in which the building project is located, in the central register pursuant to section 20A of chapter 9 of the General Laws, and within the COMPASS system, so-called. The public notice and solicitation shall be given not less than 2 weeks before the deadline for submitting responses to the RFQ.

(g) The RFQ shall require only the information contained in paragraphs (1) to (4), inclusive of this subsection, and shall identify the specific point allocation for each category and sub-category of information. Within each category of information, public agencies may

use discretion in allocating points among the subcategories, consistent with the total points for the category.

(1) *Management Experience (50 points; minimum of 25 required for approval):*

(i) Business owners, The name, title, and years with firm of the owner of the business.

(ii) Management personnel, The names, title, education and construction experience, years with firm, and list of projects completed by all management personnel.

(iii) Similar project experience, The project name, description, description of scope, original trade contract sum, final trade contract sum with explanation, and date completed of similar projects.

(iv) Terminations, A list of any projects on which the trade contractor was terminated or failed to complete the work.

(v) Lawsuits, A list of commercial lawsuits in which the trade contractor is a defendant or defendant-in-counterclaim with regard to construction contracts within the last 3 years. The lawsuits shall not include any actions that primarily involve personal injury or workers' compensation claims, or where the sole cause of action involves the trade contractor's exercise of its rights for direct payment under section 39F of chapter 30 of the General Laws.

(vi) Safety record, The 3-year history of the trade contractor's workers' compensation experience modifier.

(2) *References (30 points; minimum of 15 required for approval) :*

(i) Project references, Client references for all projects listed in clause (iii) of paragraph (1), including the project name, client's name, address, telephone and fax number, and contact person.

(ii) Credit references, A minimum of 5 credit references, including telephone and fax number of contact person from key suppliers, vendors and banks.

(iii) Public project record, A list of all completed public building construction projects as defined in section 44A of chapter 149 of the General Laws during past 3 years with client's name, address, telephone and fax number and contact person.

(3) *Capacity to Complete Projects (20 points; minimum of 10 required for approval):*

(i) Annual revenue for prior 3 fiscal years. There shall be no requirement for submission of financial statements.

(ii) Revenue under contract for next 3 fiscal years.

(4) Mandatory commitment letter, for which no points are assigned, for payment and performance bonds at 100 per cent of the estimated trade contract value from a surety company licensed to do business in the commonwealth and whose name appears on United States Treasury Department Circular 570.

(h) Statements of qualifications submitted in response to the RFQ issued pursuant to this section shall be reviewed and scored by the trade contractor prequalification committee established pursuant to this section. All trade contractors who achieve a score of 70 points or greater shall be prequalified to participate in a request for bids processes initiated for a specific building project. The decision of the prequalification committee shall be final and

not subject to appeal except on the grounds of fraud or collusion.

(i) When initiating a request for bids process, the authority shall issue a request for bids document which shall include, without limitation, the following information:-

(1) the date, time and place for submission of responses to the request for bids,

(2) fully detailed drawings and specifications by class of work in accordance with subsection (1) of paragraph (a) of section 44F of chapter 149 of the General Laws which shall provide for full competition for each item of material to be furnished under the contract as set forth under subsection (b) of section 39M of chapter 30 of the General Laws;

(3) a detailed definition of the trade contractor's scope of work, including alternates and allowances, if any, within that scope of work;

(4) a project schedule indicating the planned sequence and duration of each trade contractor's work;

(5) a list of prequalified trade contractors;

(6) a trade contractor bid form that shall require a listing of price, addenda, alternates and allowances, if any, for the trade work; and shall further require the trade contractor to certify that he will perform the complete trade work with employees on his own payroll, except for work customarily performed by sub-trade subcontractors within the trade; and shall further require, without limitation, the names of all sub-trade subcontractors to be used if awarded the trade contract and the each sub-trade contract sum;

(7) an affidavit that all sub-trade subcontractors named on the bid form have been prequalified by the trade contractor using criteria similar to the criteria for the prequalification of trade contractors;

(8) an affidavit of tax compliance;

(9) an affidavit of prevailing wage compliance pursuant to sections 26 and 27 of chapter 149 of the General Laws;

(10) a non-collusion affidavit;

(11) a requirement for the bidder to post a 5 per cent bid bond from a surety company licensed to do business in the commonwealth and whose name appears on U.S. Treasury Department Circular 570; but, the bid bond shall be returned to the bidder if the bidder is not selected as the trade contractor;

(12) the budget for the project, and the budget amount for the trade contract scope of work as provided in the project guaranteed maximum price if available, or as provided in the most recent budget for the project; and

(13) a trade contractor agreement form as set forth in this section including all exhibits.

Trade contractors submitting proposals in response to a request for bids shall do so in accordance with the requirements contained in the request for bids package. Any proposal which does not include the bid bond or affidavits required pursuant to this paragraph or any response in which the information requested is incomplete, conditional, or obscure or which contains any additions not required in the request for bids package shall be rejected.

(j) Proposals shall be opened publicly by the authority and shall be awarded to the lowest responsible prequalified bidder. If the authority receives fewer than 3 responsive bids on any proposed trade contract and the lowest bid exceeds the estimated cost for the work for which proposals are requested, the construction management at risk firm shall attempt to negotiate an acceptable price with the lowest prequalified bidder. If the negotiations are unsuccessful, the construction management at risk firm shall terminate negotiations with the lowest prequalified bidder and shall initiate negotiations with the trade contractor who was the second lowest prequalified bidder. If the construction management at risk firm is unsuccessful in negotiating an acceptable price with the lowest prequalified bidder and second lowest prequalified bidder, the construction management at risk firm, on behalf of and with the consent of the authority, shall solicit additional bids, utilizing the procedures for selection of subcontractors who are not trade contractors, set out in subsection (i).

(k) Each trade contractor selected by construction management at risk firm to perform work on the building project shall return an executed trade contract including the required performance and payment bonds and insurance certificate to the construction management at risk firm within ten business days of receipt of the trade contract from the construction management at risk firm. The trade contract shall be the trade contractor agreement as follows:

**TRADE CONTRACTOR AGREEMENT**

THIS AGREEMENT MADE THIS \_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_\_\_, by and between \_\_\_\_\_ a corporation organized and existing under the laws of \_\_\_\_\_ a partnership consisting of \_\_\_\_\_ an individual doing business as \_\_\_\_\_ hereinafter called the "Construction Management At Risk Firm" and \_\_\_\_\_ a corporation organized and existing under the laws of \_\_\_\_\_ an individual doing business as \_\_\_\_\_ hereinafter called the "Trade Contractor".

WITNESSETH that the Construction Management At Risk Firm and the Trade Contractor for the considerations hereafter named, agree as follows:

The Trade Contractor agrees to furnish all labor and materials required for the completion of all work specified in Section No(s). \_\_\_\_ of the specifications for \_\_\_\_\_ (name of Sub-trade(s)) and the plans referred to therein and addenda No. \_\_\_\_ for the \_\_\_\_\_ (project) all as prepared by \_\_\_\_\_ designer. All work shall be in accordance with the contract documents listed on Exhibit A; and the detailed Scope of Work listed on Exhibit B. The Construction Management At Risk Firm agrees to pay the Trade Contractor as full payment for all the work in Exhibit B the sum of \$ \_\_\_\_\_. This price includes the following alternates: Nos. \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_.

The Trade Contractor agrees to be bound to the Construction Management At Risk Firm by the terms of the hereinbefore described plans; specifications (including all general conditions stated therein) and addenda No. \_\_\_\_\_, and \_\_\_\_\_, and \_\_\_\_\_, and to assume to

the Construction Management At Risk Firm all the obligations and responsibilities that the Construction Management At Risk Firm by those documents assumes to the \_\_\_\_\_ (Authority) hereinafter called the "Authority", except to the extent that provisions contained therein are by their terms or by law applicable only to the Construction Management At Risk Firm.

The Construction Management At Risk Firm agrees to be bound to the Trade Contractor by the terms of the hereinbefore described documents and to assume to the Trade Contractor all the obligations and responsibilities that the Authority by the terms of the hereinbefore described documents assumes to the Construction Management At Risk Firm, except to the extent that provisions contained therein are by their terms or by law applicable only to the Authority.

The Construction Management At Risk Firm agrees to begin, prosecute and complete the entire work specified by the authority in an orderly manner so that the Trade Contractor will be able to begin, prosecute, and complete the work described in this Trade Contract; and, in consideration thereof, upon notice from the Construction Management At Risk Firm, either oral or in writing, the Trade Contractor agrees to begin, prosecute and complete the work described in this Trade Contract in an orderly manner and in accordance with the Project Schedule attached as Exhibit C as it may be reasonably modified from time to time by agreement of the Construction Management At Risk Firm and the Trade Contractor.

The Trade Contractor agrees to furnish to the Construction Management At Risk Firm, on execution of this Trade Contractor Agreement and prior to commencing the work, evidence of workers' compensation insurance as required by law and evidence of public liability and property damage insurance of the type and in limits required to be furnished to the authority by the Construction Management At Risk Firm.

The Construction Management At Risk Firm agrees that no claim for services rendered or materials furnished by the Construction Management At Risk Firm to the Trade Contractor shall be valid unless written notice thereof is given by the Construction Management At Risk Firm to the Trade Contractor during the first ten (10) days of the calendar month following that in which the claim originated.

This Trade Contractor Agreement is contingent upon the execution of an amendment to the contract between the Construction Management At Risk Firm and the authority for the work of the Trade Contractor.

If the Trade Contractor should be adjudged a bankrupt, or if he should make a general assignment for the benefit of his creditors, or if a receiver should be appointed on account of his insolvency, or if he should persistently or repeatedly refuse or should fail, except in cases for which extension of time is provided, to supply enough properly skilled workmen or proper materials, or if he should fail to make prompt payment to sub-trade subcontractors or for material or labor, or persistently disregard laws, ordinances or the instructions of the Construction Management At Risk Firm, or otherwise be guilty of a substantial violation of any provision of the contract, then the Construction Management At Risk Firm may, without prejudice to any other right or remedy and after giving the Trade Contractor and his surety

seven days' written notice, terminate the employment of the Trade Contractor and take possession of the premises and of all materials, tools, and appliances thereon and finish the work by whatever method he may deem expedient. In such case the Trade Contractor shall not be entitled to receive any further payment until the work is finished. If the unpaid balance of the trade contract price shall exceed the expense of finishing the work including compensation for additional architectural, managerial and administrative services, such excess shall be paid to the Trade Contractor. If such expense shall exceed such unpaid balance, the Trade Contractor shall pay the difference to the Construction Management At Risk Firm. The Construction Management At Risk Firm and Trade Contractor shall have the right to seek damages for breach of this Trade Contract without terminating this Trade Contract or ceasing performance hereunder.

The following exhibits are incorporated into their subcontract:

Exhibit A: List of Contract Documents

Exhibit B: Detailed Scope of Work

Exhibit C: Project Schedule

IN WITNESS WHEREOF, the parties hereto have executed this agreement the date and year first above-written.

SEAL

ATTEST \_\_\_\_\_  
Trade Contractor

SEAL

ATTEST \_\_\_\_\_  
Construction Management At Risk Firm

Section 21H. (a) For building projects implemented pursuant to section 21A to 21I, inclusive, subcontractors who are not trade contractors as defined in subsection (a) of section 21G and whose work has an estimated cost at or exceeding the threshold sum identified in subsection (1) of section 44F of chapter 149 of the General Laws, the construction management at risk firm shall submit to the authority for approval the qualifications that a subcontractor must have in order to perform the work of the subcontract and a list of 3 subcontracting firms which the construction management at risk firm believes meets the qualifications. The authority may eliminate firms from the list and may add firms to the list; if, any firm added is acceptable to the construction management at risk firm. The construction management at risk firm shall invite each subcontractor approved by the authority to submit a bid for the work; but, the bid shall be based on detailed bidding information developed by the construction management at risk firm. The construction management at risk firm shall present a list of the bids submitted to the authority. The construction management at risk firm shall indicate the bidders who are selected to be awarded a subcontract. The construction management at risk firm shall provide a written explanation as to the reason for the award of a subcontract. Notwithstanding the foregoing, subcontracts with an award value that does not exceed the threshold sum as identified in sub-

section (1) of section 44F of said chapter 149, may be awarded by the construction management at risk firm using a selection method selected by the construction management at risk firm with the approval of the authority.

Section 21I. Sections 26, 27, 27A, 27B, 27C, 27D, 29, 29C, and 34A of chapter 149 of the General Laws, and sections 39F, 39J, 39K, 39N, 39O, 39P, and 39R of chapter 30 of the General Laws shall apply to all building projects constructed by the Authority as provided in sections 21A to 21I, inclusive of this chapter.

**SECTION 31.** Chapter 127 of the acts of 1999 is hereby amended by striking out section 260 and inserting in place thereof the following section:-

**SECTION 260.** Notwithstanding the provisions of any general or special law to the contrary, the commissioner of the division of capital asset management and maintenance may, upon the request of a public institution of higher education, delegate project control and supervision to that institution over projects whose estimated cost is less than \$500,000 if said commissioner determines that the institution has the ability to control and supervise such project.

**SECTION 32.** Notwithstanding any general or special law, or any policy, rule or regulation to the contrary, every contract for the construction, reconstruction, installation, demolition, maintenance or repair of any building by an auxiliary organization established and organized by the university of Massachusetts shall be subject to sections 44A to 44H, inclusive, of chapter 149 of the General Laws. Every contract for the construction, reconstruction, alteration, remodeling or repair of any public works project by an auxiliary organization shall be subject to section 39M of chapter 30 of the General Laws. Design services procured by an auxiliary organization shall be procured in the same manner as the university of Massachusetts procures the services.

**SECTION 32A.** The corporations established pursuant to chapter 138 of the acts of 1992 and chapter 163 of the acts of 1997 shall not be considered auxiliary organizations of the university.

**SECTION 32B.** Section 32A shall expire on August 1, 2006.

**SECTION 33.** Notwithstanding any general or special law to the contrary, the Massachusetts Development Finance Agency shall make not less than \$500,000 available in fiscal year 2005 for a contract with the Massachusetts Alliance for Small Contractors for the purpose of providing technical assistance, education, capacity building, and support services to small businesses, minority owned businesses and women owned businesses, with a particular focus on the businesses that are seeking to participate in public building projects and public works projects.

**SECTION 34.** Sections 18 and 27 shall take effect on January 1, 2005.

Approved July 19, 2004.

---

## Chapter 194. AN ACT ESTABLISHING AN ALTERNATIVE EDUCATION GRANT PROGRAM.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to establish forthwith an alternative education grant program, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

*Be it enacted, etc., as follows:*

**SECTION 126.** Said chapter 69 is hereby amended by inserting after section 1M, as appearing in the 2002 Official Edition, the following section:-

Section 1N. (a) The department of education, hereinafter referred to as the department, shall establish a grant program, subject to appropriation, to be known as the alternative education grant program for the purpose of providing grants to assist school districts and Horace Mann and commonwealth charter schools with the development and establishment of alternative education programs and services to students suspended or expelled from school. The grants shall support the development of alternative education programs which would: (1) allow school districts to coordinate efforts to establish interdistrict regional alternative education collaboratives to provide educational services to suspended or expelled students; or (2) establish a district based alternative education program for those students. The grants may also be used to encourage the use of technology in alternative education programs. The grants shall also encourage voluntary expansion of existing alternative education programs in the commonwealth, and shall be used to provide alternative education programs for students who are at risk of educational failure due to truancy, or dropping out of school. Grants may also be used to assist in developing programs that provide a range of approaches to address behavior issues, such as behavior specialists, in-school suspension rooms and crisis centers, in addition to out-of-school alternative settings.

Programs designed under the grants shall be developed at the middle and high school levels and shall afford students the opportunity to earn a high school diploma in accordance with section 1D, and to be taught to the same academic standards and curriculum frameworks established for all students in accordance with sections 1D and 1E. The programs shall make use of existing resources in school districts, educational collaboratives, community colleges, and other agencies, service providers, and organizations. Programs shall be designed as placements that, at a minimum, educate students to the same academic standards and curriculum frameworks as taught to all students, address behavioral problems, utilize small class size, address individual needs and learning styles, provide engaging instruction and a supportive environment, and, where appropriate, utilize flexible scheduling. The programs shall also provide a comprehensive array of social services to support a student's remediation of issues that cause school failure, excessive absenteeism, truancy and school dropout. Grant recipients shall develop remediation plans for students that address both academic and behavioral issues. Grants may also be made available for in-school regular education programs

that include self-improvement, behavior management and life skills training to help provide students with tools to better manage their lives and attitudes, to support programs that use family-based approaches, and to assist students and teachers during the transition of students back into regular education classrooms.

A grant awarded pursuant to this subsection, shall require that recipients undertake ongoing program evaluations that document the effectiveness of the program in helping students to achieve academically to the same academic standards and curriculum frameworks required for all students, to develop self-management skills, and to reintegrate and remain in regular education classrooms. In awarding grants, priority shall be given to programs that employ interventions that have been empirically validated.

The department shall establish guidelines governing the alternative education grant program. The guidelines shall include, but not be limited to, a requirement that when a student is transferred to an alternative education program a representative of the school district shall meet with the student and the student's parents or legal guardian to develop an agreement that specifies the responsibilities of the school, the student and the student's parents or legal guardian. The agreement shall, at a minimum, include:

- (1) a remediation plan to address both academic and behavioral issues;
- (2) a plan for frequent evaluations and assessments of the student's adjustment, and academic achievement and progress;
- (3) a requirement that the parents or legal guardian of the student attend specified meetings or conferences with teachers, or utilize such other means of communication as determined necessary to facilitate communication, to review and assist in the student's progress;
- (4) a timetable for reintegrating the student into a regular education classroom;
- (5) the student's and the parents' or legal guardian's acknowledgement that they understand and accept the responsibilities imposed by the agreement.

(b) The department shall establish a grant program, subject to appropriation, to assist school districts with the development and establishment of in-school regular education programs and services to address within the regular education school program the educational and psycho-social needs of children whose behavior interferes with learning, particularly those who are suffering from the traumatic effects of exposure to violence. As used in this subsection, students suffering from the traumatic effects of exposure to violence shall include, but not be limited to, those exposed to abuse, family or community violence, war, homelessness or any combination thereof. The grants shall support the development of school based teams with community ties that: (1) collaborate with broadly recognized experts in the fields of trauma and family and community violence and with battered women shelters; (2) provide ongoing training to inform and train teachers, administrators, and other school personnel to understand and identify the symptoms and trauma; and (3) evaluate school policy and existing school and community programs and services to determine whether and to what extent students identified as suffering from exposure to trauma can receive effective supports and interventions that can help them to succeed in their public school programs, and

where necessary be referred quickly and confidentially to appropriate services.

Grants may also be awarded to assist school districts in developing comprehensive programs to help prevent violence in schools, from whatever causes, and to promote school safety. The programs shall be designed to meet the following objectives: creating a school environment where students feel safe and that prevents problems from starting; helping students to take the lead in keeping the school safe; ensuring that school personnel have the skills and resources to identify and intervene with at-risk students; equipping students and teachers with the skills needed to avoid conflict and violence; and helping schools and individuals to reconnect with the community and share resources.

The department shall develop guidelines governing the implementation of the grant program authorized by this subsection. A grant awarded pursuant to this subsection shall require that recipients undertake ongoing evaluations of the effectiveness of the program. In awarding grants, priority shall be given to programs that are based on empirically validated interventions.

The department of education, in consultation with the department of public health and the department of mental health, shall establish an advisory committee to assist in implementing the grant program and in assisting public schools in addressing the learning and behavior problems of students who manifest trauma-related symptoms or classroom behavior that interferes with learning. Members of the advisory committee shall include but not be limited to: 3 educators, 1 of whom shall serve as the chair, appointed by the commissioner of the department of education; 2 leaders in the field of trauma and its relationship to school learning and behavior appointed by the commissioner of the department of public health; 2 leaders in mental health with expertise in family and/or community violence appointed by the commissioner of mental health; 1 leader in battered women's services appointed by the commissioner of public health; 1 leader in the area of homelessness and its impact on children appointed by commissioner of mental health; and 3 parents, 1 each appointed by the commissioner of education, the commissioner of public health, the commissioner of mental health. The advisory committee, at its discretion, may select additional members with relevant experience including but not limited to child advocates, medical doctors and representatives of juvenile and probate court.

(c) The commissioner shall evaluate annually the effectiveness of programs established under this section including the potential for replicating such programs throughout the commonwealth. The annual evaluation shall also examine whether students in alternative education programs funded under this section are being taught to the same academic standards required for all students, how much time students are spending in the programs, the racial profile of expelled or suspended students and the percentages of the students who are in special education or bilingual education. The commissioner shall also provide technical assistance to school districts seeking to replicate programs funded under this section, and shall provide training for teachers in the development of effective remediation plans for students in alternative education, and in the development of skills, techniques, and innovative strategies to assist the students. In evaluating programs funded

under subsection (b), the commissioner shall consult with the department of public health, the department of mental health, and the advisory committee established pursuant to said subsection (b).

**SECTION 2.** This act shall take effect as of July 1, 2004.

*The foregoing was laid before the Governor on the Eighth day of July, 2004 and after ten days had the force of law as prescribed by the Constitution as it was not returned by him to the branch in which it originated with his objections thereto within that time.*

## **Chapter 195. AN ACT AUTHORIZING THE MODIFICATION OF THE FORM OF PROPERTY TAX BILLING IN THE TOWN OF BELMONT.**

*Be it enacted, etc., as follows:*

**SECTION 1.** (a) Except as otherwise provided, a notice of preliminary tax for real estate and personal property shall be sent out no later than July 1 of each year, and shall be due and payable in 1 installment, the installment due on August 1, after which date if unpaid, it shall become delinquent and subject to interest as provided in this act. The preliminary tax shall in no event exceed 25 per cent of 102 ½ per cent of the tax payable during the preceding fiscal year and of the amount by which such tax would have increased if any referendum question submitted to the voters under paragraph (g), (i ½), (j) or (k) of section 21C of chapter 59 of the General Laws and approved for the fiscal year.

(b) Notwithstanding subsection (a), a notice of preliminary tax may be sent out after July 1, but no such notice of preliminary tax shall be sent unless first approved by the commissioner of revenue. As a condition of such approval, the commissioner may establish requirements, which may include, but not be limited to, the submission by the board of assessors of all information required to set the tax rate under section 23 of said chapter 59, except the assessed valuation of all real and personal property subject to taxation for the current fiscal year. Any notice of preliminary tax mailed after July 1 shall be due and payable in 1 installment, the installment due 30 days after the mailing of the notice, after which date if unpaid, it shall become delinquent and subject to interest as provided in this act. If such notice is mailed after August 1, the entire notice shall be due and payable November 1 or the 30 days after the date of mailing, whichever is later.

(c) All provisions of law regarding the procedures for issuing, mailing and collecting tax assessments upon real and personal property and betterment assessments shall apply to the notice of preliminary tax, including the payment of interest. To the extent that any rights or remedies under law accrue from the date that the tax bill is issued, only the tax bill issued upon the establishment of the tax rate for the current fiscal year shall govern such rights and remedies. Section 21C of said chapter 59 shall apply to the tax rate established by the town of Belmont for the current fiscal year.

(d) Notwithstanding subsection (a), if the town of Belmont seeks to issue a notice of preliminary tax for any fiscal year, it may require the payment of a preliminary tax in excess of 25 per cent of 102 ½ per cent of the tax payable during the preceding fiscal year and of the amount by which such tax would have increased if any referendum question submitted to the voters under paragraph (g), (i ½), (j) or (k) of section 21C, of said chapter 59 and approved for the fiscal year had been approved for the preceding fiscal year, to the extent that such excess represents ¼ of the amount of tax accruing as a result of the loss of exemption from tax that has been granted in the preceding fiscal year, improvements to the parcel, or the parcel being taxed as a separate parcel for the first time. The town of Belmont may issue a notice of preliminary tax for any property which becomes subject to taxation for the first time in a current fiscal year.

(e) Notwithstanding any general or special law to the contrary, the assessors may add any betterment assessment or apportionment thereof, water rate, annual sewer use charge and any other charge placed on the annual tax bill to the preliminary tax on the property to which it relates and such amount shall become part of the preliminary tax.

(f) The assessors may, on application or on their own motion, abate so much of the preliminary tax as remains unpaid that is in excess of the property owner's proportional share.

(g) The actual tax bill issued upon the establishment of the tax rate for the fiscal year, after credit is given for the preliminary tax payment previously made, shall be due and payable in 3 installments, on November 1, on February 1 and on May 1 respectively, after which dates if unpaid, they shall become delinquent.

(h) If actual tax bills are not mailed by December 31, then upon the establishment of the tax rate there shall be a single actual bill due and payable on May 1, or 30 days after the date of mailing, whichever is later. The bill shall represent the full balance owed after credit is given for the preliminary tax payment previously made.

**SECTION 2.** This act shall take effect upon its passage.

*This bill was returned by the Governor to the House of Representatives, the branch in which it originated, with his objections thereto, was passed by the House on July 8, 2004, and in concurrence by the Senate on July 13, 2004, the objections of the Governor notwithstanding, in the manner prescribed by the Constitution, and therefore has the force of law.*

## **Chapter 196. AN ACT RESTRUCTURING THE TRANSPORTATION SYSTEM OF THE COMMONWEALTH.**

*Whereas, The deferred operation of this act would tend to defeat its purpose, which is to immediately provide for reforms and improvements to the commonwealth's transportation system, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.*

*Be it enacted, etc., as follows:*

**SECTION 1.** Chapter 6 of the General Laws is hereby amended by striking out section 57, as appearing in the 2002 Official Edition, and inserting in place thereof the following section:-

Section 57. There shall be a commission to be known as the Massachusetts aeronautics commission, consisting of 7 members 1 of whom shall be the secretary of transportation, who shall serve as chairperson of the commission and 6 persons to be appointed by the governor, no more than 5 of whom shall, at any 1 time, be members of the same political party. Of the members appointed by the governor, 4 shall be persons having practical experience in aeronautics, 1 shall be a person with experience in homeland or airport security, and at least 1 member shall be a resident of a city or town in which a regional airport facility is located. Upon the expiration of the term of office of a member of the commission, his successor shall be appointed for a term coterminous with that of the governor. Each member of the commission shall serve without pay.

The commission shall be provided with suitable offices at the General Edward Lawrence Logan International Airport and elsewhere within the commonwealth as the commission may determine.

The commission, subject to appropriation, may incur such expenses as may be necessary to administer and enforce sections 35 to 52, inclusive, of chapter 90 and other laws relating to aeronautics, including the purchase of civil air patrol aviation education training aid books and materials necessary in carrying out crash, rescue and emergency operations and the organization thereof and for cadet training activities at a cost not to exceed \$20,000 annually.

The commission may pay a proper charge for effecting insurance providing for the indemnification and protection of a pilot of the aircraft under its custody, care and control, for expenses or damages incurred by him in the defense or settlement of claims against him for bodily injuries, death, or for damage to property arising out of his operation of such aircraft while acting within the scope of his official duties or employment.

The commission shall make an annual report to the general court.

**SECTION 2.** Section 2 of chapter 6A of the General Laws, as most recently amended by chapter 26 of the acts of 2003, is hereby further amended by striking out the words "and construction".

**SECTION 3.** Said chapter 6A is hereby further amended by striking out section 19, and inserting in place thereof the following section:-

Section 19. (a) The executive office of transportation shall serve as the principal agency of the executive department for the following purposes: (1) developing, coordinating, administering and managing transportation policies, planning and programs related to design, construction, maintenance, operations and financing; (2) supervising and managing the organization and conduct of the business affairs of the departments, agencies, commissions, offices, boards, divisions, and other entities within the executive office to improve adminis-

trative efficiency and program effectiveness and to preserve fiscal resources; (3) developing and implementing effective policies and programs to assure the coordination and quality of roadway, transit, airport and port infrastructure and security provided by the secretary and all of the departments, agencies, commissions, offices, boards, divisions, authorities and other entities within the executive office.

(b) The following agencies shall be within the executive office of transportation: the department of highways, including the government center commission established by section 1 of chapter 635 of the acts of 1960, and all other agencies within the department including the registry of motor vehicles, the division of motorboats, and the division of waterways; and the Massachusetts aeronautics commission, the Massachusetts Bay Transportation Authority, the Massachusetts Port Authority, the Massachusetts Turnpike Authority and any regional transportation authorities established under chapter 161 or 161B.

Nothing in this chapter shall be construed as conferring any powers or imposing any duties upon the secretary with respect to the foregoing agencies and authorities except as expressly provided by law.

(c) The governor shall appoint a secretary of transportation, who shall serve at the pleasure of the governor and shall act as the executive officer in all matters pertaining to the administration, management, operation, regulation, planning, fiscal and policy development functions and affairs of the departments, agencies, commissions, offices, boards, divisions, and other agencies within the executive office.

(d) The secretary may: (1) operate and administer the programs of roadway design, construction, repair, maintenance, capital improvement, development, and planning through the department of highways and other agencies within the executive office, as appropriate; (2) coordinate and supervise the administration of the executive office and its agencies to promote economy and efficiency and to leverage federal funding; (3) develop, in consultation with the commonwealth development coordinating council, and administer a long-term state-wide transportation plan for the commonwealth that includes planning for intermodal and integrated transportation; (4) develop, based on a public hearing process, procedures to be used for transportation project selection; (5) establish criteria for project selection to be used in the procedures developed pursuant to clause (4); (6) enter into agreements with commissions, offices, boards, divisions, authorities and other entities within the executive office to improve departments, agencies, administrative efficiency and program effectiveness and to preserve fiscal resources; (7) pursuant to chapter 30A, make, amend and repeal rules and regulations for the management and administration of the executive office and agencies within the executive office; (8) execute all instruments necessary for carrying out the business of the executive office and its agencies; (9) acquire, own, hold, dispose of, lease and encumber property in the name of the executive office and its agencies; (10) enter into agreements and transactions with federal, state and municipal agencies and other public institutions and private individuals, partnerships, firms, corporations, associations and other entities on behalf of the executive office or its agencies; and (11) apply for and accept funds, including grants, on behalf of the commonwealth in accordance with applicable law. The

secretary may delegate any of the foregoing powers to an officer having charge of a department, office, division or other administrative unit within the executive office.

(e) The secretary shall establish a performance measurement system for the agencies within the executive office, which shall establish program goals, measure program performance against those goals and report publicly on progress to improve the effectiveness of transportation design and construction, service delivery and policy decision-making. The performance measurement system shall require each agency to develop a strategic plan for program activities and performance goals. The system shall require annual program performance reports which shall be submitted to the house and senate committees on ways and means and the joint committee on transportation.

(f) Nothing in this chapter shall be construed as conferring any powers or imposing any duties upon the secretary with respect to the foregoing agencies and authorities except as expressly provided by law.

**SECTION 4.** Said chapter 6A is hereby further amended by adding the following section:-

Section 103. There shall be within the executive office of transportation an office of transportation planning which shall be under the supervision and control of the secretary. The secretary shall appoint an executive director who shall be skilled and experienced in the field of transportation planning and shall not be subject to chapter 31 or to section 9A of chapter 30. Said director may be removed for cause by the secretary. Said office shall serve as the principal source of transportation planning for state-level transportation projects, and shall work in coordination with regional planning agencies in the commonwealth, which shall serve as the principal source of transportation planning for local and regional transportation projects. Said office shall conduct research, surveys, demonstration projects and studies in cooperation with the federal government, said regional planning agencies, regional transit authorities, other governmental agencies, and appropriate private organizations.

Said office shall be responsible for the preparation of a comprehensive and coordinated intermodal transportation plan for the commonwealth. Said plan shall include programs and projects to improve and maintain facilities and equipment for all modes of transportation in the commonwealth, including highways and roads, passenger rail and other public transportation, freight rail, aviation, shipping and water transportation. Said plan shall ensure an equitable allocation of investments in transportation across the regions of the commonwealth. Said plan shall include any program for the disposition of capital assets. Said plan shall include transportation improvement projects of the commonwealth and all of its constituent agencies and authorities that own or operate transportation facilities, including the department of highways, the Massachusetts turnpike authority, the Massachusetts Bay Transportation Authority, the regional transit authorities, the Massachusetts Port Authority and the Massachusetts aeronautics commission. Said plan shall be developed in consultation with said agencies and authorities, the commonwealth development coordinating council, the metropolitan planning organizations, the regional planning agencies,

and the transportation finance commission. Said plan shall be prepared in coordination with comprehensive urban development plans and in cooperation with the said other agencies so far as practicable.

**SECTION 5.** Chapter 16 of the General Laws is hereby amended by striking out section 1, as appearing in the 2002 Official Edition, and inserting in place thereof the following section:-

Section 1. (a) There shall be a department of highways, in sections 1 to 5, inclusive, and section 13 of this chapter called the department.

The department shall:

(1) administer the design, construction, operation and maintenance of the roads and bridges of the commonwealth;

(2) enter into any contracts and agreements necessary or desirable to carry out its purposes;

(3) make, and from time to time revise, regulations for the conduct of the business of the department, and all regulations otherwise required by law;

(4) collaborate with other agencies and authorities as may be appropriate in fields related to transportation, development, public safety and security;

(5) prepare and submit to the governor and the general court an annual report containing in substance the description of the organization of the department, reviewing the work of the department, recommending legislation and other action by the governor and the general court, and containing such information relating to highways as appropriate, including information required by the commissioner of administration, and

(6) submit such other reports as the commissioner of administration requires.

The department shall be under the direction of a commissioner, who shall be appointed by the governor and who shall serve at his pleasure. The commissioner shall be responsible for administering and enforcing the provisions of this chapter relative to the administration of each bureau or other section thereof under his control and supervision unless otherwise provided herein, subject to the supervision of the secretary of transportation.

The commissioner shall be exempt from chapter 31 and the position of commissioner shall be classified in accordance with section 45 of chapter 30 and the salary shall be determined in accordance with section 46C of said chapter 30. The commissioner shall be appointed with due regard to his fitness, by reason of his experience in matters relating to transportation infrastructure, including roads and bridges, such as their construction, operations, financing or other relevant experience relative to the efficient exercise of his powers and duties. The commissioner shall administer this section and the General Laws, rules and regulations that grant powers to or impose duties upon the department, subject to the supervision of the secretary.

(b) The commissioner shall establish a procedure for recommending to the secretary approval or disapproval of all contracts, including specifications, made by the department, and any changes, alterations, amendments, or modifications thereof and for contract appeals

of all claims made under any contract with the department with the exception of claims subject to section 39Q of chapter 30. Any person aggrieved by a decision of the secretary acting in regard to contract appeals may bring suit against the commonwealth for recovery of damages based on such claim under the provisions of chapter 258.

To assist the secretary and commissioner in performing this function, the governor may appoint and remove a person of legal training and experience, who shall be a member of the bar of the commonwealth, to the position of hearing examiner. The hearing examiner shall devote full time during business hours to the duties of his position. The position shall be classified in accordance with section 45 of chapter 30 and the salary shall be determined in accordance with section 46C of said chapter 30. The secretary may refer any dispute concerning contracts, contract specifications or the execution of contracts not subject to the aforesaid section 39Q of said chapter 30 to the hearing examiner for a report on the matter including a recommendation as to the disposition of the dispute.

The hearing examiner shall hear all claims by contractors from determinations of the department with the exception of claims subject to said section 39Q of said chapter 30; and shall, after hearing, render to the secretary a report of the matter including a recommendation as to the disposition of the claim. Said examiner shall at the request of the contractor or of the department or on his own motion summon witnesses and require the production of books and records and take testimony under oath. Such reports shall be maintained as public records in a place and form fully accessible to the public.

(c) The commissioner shall appoint and may remove all employees in the department, subject to the approval of the secretary. Except as provided in this chapter or as otherwise provided by law, all such appointments and removals shall be made in accordance with the provisions of chapter 31. From time to time the commissioner may, subject to appropriation and regulation, employ such consultants as he may consider necessary.

The commissioner may appoint and remove without regard to chapter 31, but with the approval of the secretary, a chief engineer; 5 deputy chief engineers; an assistant chief engineer; a highway and structures engineer; a bridge engineer; highway engineers; district highway engineers; a chief counsel to serve in the office of the commissioner; a director to serve in the division of administrative services; 4 executive assistants to the commissioner; a personnel director; a director of the right of way bureau; and a director of public information. The total number of appointments to be made by the commissioner under this paragraph shall not exceed 35. No person holding an appointment under this paragraph shall be subject to chapter 31 or section 9A of chapter 30. Nothing in this section shall be deemed to exempt the positions named herein from sections 45 to 50, inclusive, of said chapter 30. So far as practicable in the judgment of the commissioner, appointments to said positions not classified under said chapter 31 shall be made by promoting employees of the commonwealth serving in positions so classified. Any person appointed to the position of chief engineer, deputy chief engineer, assistant chief engineer, highway and structures engineer, bridge engineer, highway engineer or district highway engineer, shall be a person of experience and skill as an engineer and shall be: (i) an employee of the division holding an office or position

classified under said chapter 31 with permanent status of senior civil engineer or higher; (ii) a registered professional engineer; or (iii) a person who has received the degree of bachelor of science in an appropriate engineering discipline from an accredited college or university. Where an employee of the commonwealth having permanent status in a position classified under or having tenure by reason of section 9A of said chapter 30 is so promoted to such unclassified position, upon termination of service in such unclassified position the employee shall be restored to the position from which he was promoted; or to a position equivalent thereto in the salary grade in the same state agency; or if he had been promoted in accordance with said chapter 31 during promotion in the unclassified position, to the position to which he was so promoted or to a position equivalent thereto in salary grade in the same state agency. In cases of restoration under said chapter 31, or under said section 9A of said chapter 30, such restoration shall be without impairment of civil service status or tenure under said section 9A, and without loss of the seniority, retirement and other rights to which uninterrupted service in the position would have entitled the employee; provided, however, that if his service in such unclassified position has been terminated for cause, the employee's right to be restored shall be determined by section 43 of said chapter 31. During the period of such appointment the person so appointed shall be eligible to take any competitive promotional examination for which he or she would otherwise have been eligible.

(d) The commissioner may promulgate rules and regulations to effectuate the purposes of this chapter.

**SECTION 6.** Section 2 of said chapter 16, as so appearing, is hereby amended by striking out the fourth sentence.

**SECTION 7.** Section 3 of said chapter 16, as so appearing, is hereby amended by inserting after the word "time", in line 4, the second time it appears, the following words:- with the approval of the secretary of transportation.

**SECTION 8.** Section 3A of said chapter 16 is hereby repealed.

**SECTION 9.** Chapter 81A of the General Laws is hereby amended by striking out section 2, as appearing in the 2002 Official Edition, and inserting in place thereof the following section:-

Section 2. (a) The authority shall consist of 5 members to be appointed by the governor who shall be residents of the commonwealth, not more than 3 of whom shall be of the same political party, and at least 1 member at all times shall be a resident of a town which abuts the Massachusetts turnpike and is wholly or partially located between the Weston toll plaza and the interstate route 495 interchange. Beginning July 1, 2007, 1 of the members shall be the secretary of transportation, who shall serve as chairperson of the authority. All members shall have senior management level experience in 1 or more of the following areas: engineering, construction, business, public or private finance, and transportation. A member of the authority shall be eligible for reappointment. Before entering upon the duties of his office, each member of the authority shall take an oath before the governor to administer the duties of his office faithfully and impartially and a record of such oath shall be filed in the office of the state secretary.

(b) Except for the chairperson, the members of the authority who began in office before July 31, 2002 shall continue for the remainder of their respective terms, and the members of the authority appointed after July 31, 2002 and before July 1, 2004 shall continue for the remainder of an initial term which shall be for 6 years, but all successive terms for members shall be for terms of 5 years. Except for the secretary of transportation, members of the authority appointed after July 1, 2004 shall be appointed for terms of 5 years. Any person appointed to fill a vacancy shall serve only for the unexpired term. The chairman of the authority whose term of office began before July 31, 2002 shall continue in office until July 1, 2007.

(c) The authority shall elect 1 of the members as vice chairperson. Three members of the authority, including the chairperson, shall constitute a quorum and the affirmative vote of 3 members shall be necessary for any action taken by the authority. No vacancy in the membership of the authority shall impair the right of a quorum to exercise all the rights and perform all the duties of the authority. The members shall serve without pay. Each member shall be reimbursed for his actual expenses necessarily incurred in the performance of his duties.

(d) The authority shall have the power to appoint and employ officers, including an executive director, and to fix their compensation and conditions of employment. The authority may bind itself by contract to employ not more than 5 senior officers and no such contract shall be for a period of more than 5 years. The salary of the executive director shall not exceed the salary of the commissioner of highways. The authority shall annually, on or before January 1, submit to the secretary of administration and finance and the house and senate committees on ways and means a schedule of salaries of all its employees and any proposed increases therein. The secretary may make recommendations to the authority on the salary structure and shall advise the authority of the prevailing rates that the commonwealth pays for similar services.

(e) The executive director of the authority shall report to the secretary of transportation on a regular basis to assist the secretary in coordinating the transportation agenda of the commonwealth.

(f) The authority may indemnify any member, officer or employee from personal expenses or damages incurred, arising out of any claim, suit, demand or judgment which arose out of any act or omission of such member, officer or employee, including the violation of the civil rights of any person under any federal law if, at the time of such act or omission such member, officer or employee was acting within the scope of his official duties or employment.

**SECTION 10.** Section 1 of chapter 161B of the General Laws, as so appearing, is hereby amended by inserting after the definition of "Authority" the following definition:-  
"Council", the regional transit authority council established in section 27.

**SECTION 11.** Said chapter 161B is hereby further amended by adding the following section:-

Section 27. There shall be a regional transit authority council for the purposes of coordination and sharing information and best practices in matters of security and public safety planning and preparedness, service delivery, cost savings, and administrative efficiencies. Members of the council shall include the administrator of each authority established under section 14. The secretary shall be chairman of the council and the general manager of the Massachusetts Bay Transportation Authority shall be a nonvoting member of the council. The council shall meet no less than once each calendar quarter or upon the request, with reasonable notice, of the secretary.

**SECTION 12.** Section 2 of chapter 465 of the acts of 1956 is hereby amended by striking out the third paragraph, as amended by section 10 of chapter 246 of the acts of 2002, and inserting in place thereof the following paragraph:-

One of the members shall be the secretary of transportation. The authority shall annually elect 1 of its members as chairman and another as vice-chairman and shall also elect a secretary-treasurer who need not be a member of the authority.

**SECTION 13.** There is hereby established a special transportation finance commission to develop a comprehensive, multi-modal, long-range, transportation finance plan for the commonwealth.

The commission shall have 13 members, including the following: 5 members who shall not be employees of the executive branch and who shall reside in different geographic regions of the commonwealth, 1 of whom shall be a representative of the Construction Industries of Massachusetts, to be appointed by the governor to serve terms of 2 years; 3 members, who shall not be members of the general court and who shall reside in different geographic regions of the commonwealth, to be appointed by the president of the senate to serve a term of 2 years; and 3 members, who shall not be members of the general court and who shall reside in different geographic regions of the commonwealth, to be appointed by the speaker of the house of representatives to serve a term of 2 years; a representative of the Massachusetts Taxpayers Foundation; and a representative of the Massachusetts Business Roundtable. Each of the members of the commission shall be an expert with experience in the fields of law or public policy, transportation planning, or design and construction of transportation projects. One of the members appointed by the governor, 1 of the members appointed by the president of the senate, and 1 of the members appointed by the speaker of the house of representatives shall be representatives of the Massachusetts business community. One of the members appointed by the governor, 1 of the members appointed by the president of the senate, and 1 of the members appointed by the speaker of the house of representatives shall be representatives of environmental organizations, planning organizations, transportation consumer organizations or other public interest organizations. One of the members appointed by the governor shall be an expert in the field of management consulting or organizational change. One of the members appointed by the governor shall be an expert in the field of public finance. One of the members shall be appointed by the governor to serve as chairperson of the commission. The members of the commission shall be appointed no later than September 1, 2004.

In the course of its deliberations, the commission shall examine the transportation finance needs of the commonwealth for the next 25 years as identified in the short and long-term transportation plans developed by the executive office of transportation, the state transportation improvement program, the program for mass transportation, the capital investment programs of the Massachusetts Bay Transportation Authority, the regional transit authorities, the Massachusetts Turnpike Authority and the Massachusetts Port Authority; environmental mitigation agreements executed in connection with the central artery/tunnel project; and other transportation needs as identified by the commission. The commission shall consider all modes of transportation, including highways and roads, passenger rail and other public transportation, freight rail, aviation, shipping and water transportation.

The commission shall make a priority of examining the technical and financial feasibility of sustaining and expanding the public transit system, including but not limited to the central artery/tunnel project environmental commitment projects, so-called, and other service expansion proposals, including high priority projects as identified by the Massachusetts Bay Transportation Authority. Said commission shall evaluate proposed transit projects based on their transportation, economic and environmental benefits relative to costs. Said commission shall examine and develop recommendations on ways in which the Massachusetts Bay Transportation Authority may meet operational and capital improvement and reconstruction needs for the next 25 years, including without limitation recommendations regarding debt reduction, enhancing revenues derived from fares, establishing new incentives for public-private partnerships in the development of real property resources, and funding resources.

The commission shall examine the finances of the regional transportation authorities, including, but not limited to, examining state aid levels and the feasibility of moving regional transit authorities from the current reimbursement form of funding to forward funding and make recommendations for improvements to financial policies and procedures. The commission shall also identify areas where cost savings can be achieved across transportation agencies via consolidation, coordination, and reorganization.

The commission shall examine the projected federal funding, projected state funding, projected toll and fare revenue-based funding, debt financing, and any other sources of projected funding to finance the transportation needs identified by the commission. The commission shall develop recommendations as to what funding or finance measures the commonwealth or its transportation agencies may pursue to satisfy any unmet funding needs identified by the commission. The recommendations shall also include any recommendations for inter-agency agreements, consolidations, or mergers that will enable the commonwealth to make the most effective use of its transportation funding resources. The recommendations of the commission shall be designed to identify fair and equitable means of financing transportation investments through taxes, tolls, fares and other user charges.

The commission shall develop a report detailing its findings relative to identified transportation needs and identified funding sources, including a draft of any legislation required to implement its recommendations. The commission shall submit its initial report

to the governor, the secretary of transportation, the clerks of the house of representatives and the senate, the house and senate committees on ways and means and the joint committee on transportation no later than December 31, 2004. The commission shall file an updated plan each year thereafter, not later than December 31.

Any research, analysis or other staff support that the commission reasonably requires shall be provided by the executive office of transportation.

**SECTION 14.** The executive office of transportation shall promote administrative saving and improvement initiatives between the Massachusetts Port Authority and the Massachusetts aeronautics commission. These initiatives shall reduce duplication and enhance coordination regarding airport access, planning, economic development and security. The secretary of transportation shall report to the house and senate committees on ways and means and the joint committee on transportation the results of these initiatives no later than March 1, 2005, which report shall include a list of the administrative savings and the projected amount of savings or other improvements from initiatives.

**SECTION 15.** The executive office of transportation shall promote administrative saving and improvement initiatives among the Massachusetts Bay Transportation Authority and any regional transportation authorities established under chapter 161B of the General Laws. These initiatives shall seek to promote the sharing of resources as appropriate and to enhance statewide transit service, construction, repair, maintenance, capital improvement, security, coordination, financing and planning. The executive office of transportation shall study the issue of tort liability among the regional transportation authorities established under said chapter 161B. The executive office of transportation shall also examine and pursue appropriate models for increasing federal aid for transit projects in the commonwealth. The secretary of transportation shall report to the house and senate committees on ways and means and the joint committee on transportation the results of these initiatives on or before March 1, 2005, which shall include a list of the administrative savings adopted and the projected amount of savings or other improvements from such initiatives.

**SECTION 16.** The executive office of transportation, the Massachusetts Turnpike Authority and the department of highways shall identify instances in which the authority or the department can achieve costs savings and improved performance and service by eliminating or consolidating duplicative functions, sharing or coordinating resources, equipment, facilities, expertise, personnel and procurement. The department shall enter into an agreement or agreements with the authority to achieve efficiencies, realize cost savings, eliminate duplication, and provide enhanced value to the commonwealth. The secretary shall not take actions under this section that would waste revenue or assets of the authority in a way that would impair its operations or financial covenants. The executive office of transportation shall submit a report to the joint committee on transportation and the house and senate committees on ways and means on or before March 1, 2005, detailing all cost savings to the commonwealth resulting from any agreements concluded pursuant to this section or estimated to result from any proposed agreement to share employees, equipment and operational activities and functions in order to achieve efficiencies, improve performance

or services and cost savings, including recommendations to establish a permanent and potentially expanded process for the transfer or consolidation of certain responsibilities for interstate highway systems in the commonwealth from the department to the authority beginning December 31, 2005.

**SECTION 17.** Notwithstanding any general or special law to the contrary, the terms "secretary of transportation and construction" or "executive office of transportation and construction", wherever they appear in the general and special laws, shall be deemed to mean "secretary of transportation" or "executive office of transportation", respectively.

**SECTION 18.** Notwithstanding any general or special law to the contrary and in order to achieve operational efficiencies and cost savings, the Massachusetts Turnpike Authority shall study a travel demand management plan. In preparing said plan, the authority shall study the impacts and benefits of differential pricing and other value pricing strategies. The authority shall recommend for implementation the strategy that best achieves the following objectives: (1) reduced traffic congestion; (2) further participation in the authority's electronic toll collection system; and (3) reduced operating costs. The authority shall submit said plan to the joint committee on transportation and the house and senate committees on ways and means on or before December 1, 2004.

**SECTION 19.** Sections 1, 9 and 12 of this act shall take effect on July 1, 2007.

Approved July 21, 2004.

## **Chapter 197. AN ACT RELATIVE TO THE SHELLFISH WARDENS TRAINING PROGRAM.**

*Be it enacted, etc., as follows:*

Section 98 of chapter 130 of the General Laws, as appearing in the 2002 Official Edition, is hereby amended by inserting after the first sentence the following sentence:- A person having successfully completed the shellfish wardens training course at the Massachusetts Maritime Academy as certified by said academy, shall be considered qualified by training and experience in the field of shellfishery management and shall be eligible for appointment as a shellfish constable or deputy shellfish constable.

Approved July 21, 2004.

## **Chapter 198. AN ACT AUTHORIZING THE TOWN OF WAREHAM TO GRANT A CONSERVATION RESTRICTION TO THE WAREHAM LAND TRUST.**

*Be it enacted, etc., as follows:*

---

**Chap. 198**

**SECTION 1.** The town of Wareham may grant to the Wareham Land Trust a conservation restriction on a certain parcel of conservation land located in said town and known as the Fearing Hill conservation area. Said parcel is shown on Wareham tax assessors map 86, lot 1000 and lot 1023.

**SECTION 2.** This act shall take effect upon its passage.

Approved July 21, 2004.

**Chapter 199. AN ACT RELATIVE TO THE RELEASE OF A CONSERVATION  
RESTRICTION IN THE TOWN OF GRAFTON.**

*Be it enacted, etc., as follows:*

**SECTION 1.** Notwithstanding any general or special law to the contrary, the town of Grafton may release a conservation restriction placed on property owned by Kenneth and Chrystal Remillard, located at 82 Wesson Road, Grafton, on June 24, 1993, and recorded in Book 15581, Page 153.

**SECTION 2.** This act shall take effect upon its passage.

Approved July 21, 2004.

**Chapter 200. AN ACT RELATIVE TO CERTAIN HEALTH PREMIUM  
PAYMENTS MADE BY THE TOWN OF MASHPEE.**

*Be it enacted, etc., as follows:*

**SECTION 1.** Notwithstanding any general or special law to the contrary, the payments of 75 per cent of the health insurance premiums for retirees of the town and surviving spouses of employees and retirees of the town that have been made by the town of Mashpee are hereby ratified, validated and confirmed.

**SECTION 2.** This act shall take effect upon its passage.

Approved July 21, 2004.

**Chapter 201. AN ACT AUTHORIZING CERTAIN BONDS FOR SCHOOL  
BUILDING ASSISTANCE.**

*Be it enacted, etc., as follows:*

**SECTION 1.** To fund initial deposits to the School Modernization and Reconstruction Trust Fund, established by section 35Y of chapter 10 of the General Laws, the state treasurer shall, upon the request of the governor, issue and sell bonds of the commonwealth in an amount to be specified by the governor from time to time, but not exceeding, in the aggregate, the sum of \$1,000,000,000. All bonds issued by the commonwealth as aforesaid shall be designated on their face, Massachusetts School Building Assistance Fund Loan, Act of 2004, and shall be issued for such maximum term of years, not exceeding 20 years, as the governor may recommend to the general court pursuant to Section 3 of Article LXII of the Amendments to the Constitution. All such bonds shall be payable not later than June 30, 2029. All interest and payments on account of principal of such obligations shall be payable from the General Fund. Bonds issued under the authority of this section shall be general obligations of the commonwealth. Bonds issued pursuant to this section shall not be included in the computation of outstanding direct bonds for purposes of the limit imposed by the second paragraph of section 60A of chapter 29 of the General Laws, nor included in the computation of general obligation debt for purposes of the limit imposed by section 60B of said chapter 29. The comptroller shall transfer the net proceeds generated by any such bond issue to the School Modernization and Reconstruction Trust Fund.

**SECTION 2.** This act shall take effect upon its passage.

Approved July 23, 2004.

**Chapter 202. AN ACT AUTHORIZING THE DIVISION OF CAPITAL ASSET MANAGEMENT AND MAINTENANCE TO TRANSFER A CERTAIN PARCEL OF CONSERVATION/RECREATION LAND WITHIN THE TOWN OF SANDWICH.**

*Be it enacted, etc., as follows:*

**SECTION 1.** Notwithstanding sections 40F to 40I, inclusive, of chapter 7 of the General Laws, the commissioner of capital asset management and maintenance, on behalf of an in consultation with the director of the division of state parks and recreation, may convey title to a certain parcel of land and any improvement thereon, currently under the control of and used by the division of state parks and recreation for conservation and recreational purposes for the Shawme Crowell State Forest in the town of Sandwich together with an easement in, over, and upon existing ways and access roads to and from said parcel of land and Route 130 for all purposes for which ways are used in the town of Sandwich, including the installation of water mains and other utilities as appurtenant thereto, to the Sandwich water district, its successors and assigns, for purposes of constructing, maintaining, and operating a water tower for public water supply, subject to the requirements of sections 2, 3, 4, and 6, and to such additional terms and conditions consistent with this act as the commissioner may prescribe in consultation with the division of state parks and recreation.

The exact boundaries of the parcel of land, containing approximately 1 acre, and of the easements shall be determined by the commissioner in consultation with the division of state parks and recreation after completion of a survey.

**SECTION 2.** The deed conveying, by or on behalf of the commonwealth, the title to the property described in section 1 shall not be valid unless the deed provides that the property shall be used solely for the purposes described in section 1. The deed shall include a stipulation that title to the land or permanent utility or right-of-way easements shall revert to the commonwealth and be assigned to the care, custody, and control of the division of state parks and recreation if all or any part of the land or easements cease to be utilized for the express purposes for which they were conveyed.

**SECTION 3.** The grantee of the property shall pay the cost of any appraisals, surveys and other expenses considered necessary by the commissioner of capital asset management and maintenance for the granting of title.

**SECTION 4.** The grantees shall compensate the commonwealth through the payment of money or provision of the services described herein, the fair market value of which is equal to the full and fair market value of the property or its value in use as proposed, as determined by independent appraisal; provided that the lease recipient shall provide, at a minimum, 2,000,000 gallons of water per year, free of cost, to the Shawme Crowell State Forest for a period of 20 years commencing in 2039, construct a restroom for state parks and recreation fire observation staff at the base of the existing fire observation tower, including water services and supply, at no cost to the department of environmental management; provided further, that the state parks and recreation fire observation facility shall operate no longer than April 1 to October 30, inclusive, annually, allow access to tower gates for state parks and recreation staff, maintain year-round the access road to the existing fire observation tower in such condition that 2-wheel vehicles may safely utilize the access road and seasonally maintain the grass and vegetation within and immediately abutting the fire observation tower; provided further, that the building plans shall be approved by the division of state parks and recreation prior to construction; provided further, that construction, use and operation of the water tower may not interfere with existing telecommunications or fire observation operations at any time; and, provided further, that the division of state parks and recreation shall have the right to enter into lease agreements for the placement of communications antennas on the water tower in accordance with section 110 of chapter 88 of the acts of 1997, subject to prior approval of the deed recipient, said approval not to be unreasonably withheld or delayed.

**SECTION 5.** The commissioner of capital asset management and maintenance shall, 30 days before the execution of any agreement authorized by this act, or any subsequent amendment thereof, submit the agreement or amendment and a report thereon to the inspector general for his review and comment. The inspector general shall issue his review and comment within 15 days of receipt of any agreement or amendment. The commissioner shall submit the agreement and any subsequent amendments, the reports and the comments of the inspector general, if any, to the house and senate committees on ways and means and

## **Chap. 202**

the chairmen of the joint committee on state administration at least 15 days before the execution of the agreement. The grantees of the property shall pay the purchase price or perform the services as determined in accordance with section 4 as set forth in the agreement and section 6.

**SECTION 6.** Any compensation, whether in the form of services, property or funds, received by the commonwealth pursuant to sections 4 and 5 shall be deposited in the Conservation Trust established in section 1 of chapter 132A of the General Laws for improvements to facilities, structures, and trails within Shawme Crowell State Forest and Scusset Beach State Reservation.

Approved July 23, 2004.

## **Chapter 203. AN ACT AUTHORIZING THE TOWN OF NORTH ANDOVER TO GRANT OPEN SPACE RESTRICTIONS.**

*Be it enacted, etc., as follows:*

Notwithstanding any general or special law to the contrary, the town of North Andover, acting by and through its board of selectmen and conservation commission, may grant a permanent deed restriction for open space purposes to the commonwealth or any of its entities, or any private organization qualified to hold such restrictions in accordance with chapter 184 of the General Laws, limiting the use of a certain parcel described as lot 1 on North Andover Assessor's Map 36 and a certain parcel described as lot 20 on North Andover Assessor's Map 36 to open space purposes.

Approved July 23, 2004.

## **Chapter 204. AN ACT AUTHORIZING THE TOWN OF NORTH ANDOVER TO GRANT A CERTAIN EASEMENT.**

*Be it enacted, etc., as follows:*

The town of North Andover, acting by and through its board of selectmen, in consultation with the conservation commission, may grant an easement in certain conservation land located in the town to the Massachusetts Electric Company for utility purposes for guys and anchors on such terms as the board of selectmen, in consultation with the conservation commission, consider in the best interests of the town. The easement is shown on a plan of land entitled "Sketch showing proposed guys and anchors to be installed on private property owned by the town of North Andover of Forest Street, North Andover, MA: Plan #044-02-14" which is on file in the town clerk's office.

Approved July 23, 2004.



















